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Environmental Commissioner of
Ontario

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SUPPLEMENT

HAVING REGARD

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Supplement

to the

2000/2001 ECO Annual Report

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INTRODUCTION TO THE SUPPLEMENT

Introduction to the Supplement

The Supplement to the 2000/2001 annual report consists of eight sections. The following summary contains highlights of each section and discusses the role of the ECO in reporting this information to the public.

Section 1 - Unposted Decisions

Under the *EBR*, prescribed ministries are required to post notices of environmentally significant proposals on the Environmental Registry for public comment. When it comes to the attention of the Environmental Commissioner that ministries have not posted such proposals on the Registry, staff review those decisions to determine whether the public's participation rights under the *EBR* have been respected.

The ECO's inquiries on "unposted decisions" can lead to one of several outcomes. In some cases, the ministry responsible provides the ECO with a legitimate reason for not posting the decision on the Registry. For example, the decision may not be environmentally significant, it may have been made by a related non-prescribed agency instead of the ministry itself, or it may fall within one of the exceptions allowed in the *EBR*. In other cases, the ministry subsequently posts a regular notice on the Registry under Section s 15, 16, or 22 of the *EBR*. Finally, in certain cases, the decision may remain unposted, with the ministry taking the position that the particular decision does not meet the posting requirements of the legislation, and with the ECO disagreeing with that position. This section summarizes the ECO's tracking of potential unposted decisions and our findings on ministry responses to our inquiries. While decision-making in all prescribed ministries is reviewed, this year the ECO sent inquiry letters to officials in five ministries concerning potential unposted decisions, and we report on those matters in Section 1 of the Supplement.

Also included in this section is the ECO's analysis of several instances where the ministry posted an information notice under Section 6 of the *EBR* instead of a regular notice. For more information about the difference between information notices and regular notices for public comment, please refer to pages 37-39 of the annual report.

Section 2 - Ministries' Use of Information Notices

Significant differences exist between the requirements ministries must meet for regular proposal notices posted on the Environmental Registry under Sections 15, 16 or 22 of the *EBR* and information notices created under Section 6 of the *EBR*.

When regular proposal notices are posted on the Registry, a ministry is required to consider public comment and post a decision notice explaining the effect of the comments on the ministry's decision. The ECO reviews the extent to which the minister considered those comments when he or she made the final decision. The ministry is also obligated to consider its Statement of Environmental Values in its decision-making. This process is far superior to the posting of an information notice, and provides greater public accountability and transparency.

However, in cases where provincial ministries are not required to post a regular proposal notice, they can still provide a public service by posting an information notice. These notices keep Ontario's residents informed of important environmental developments. As presented in this section, five ministries posted information notices during the 2000/2001 reporting year.

Section 3 - Ministries' Use of Exception Notices

The *Environmental Bill of Rights* (*EBR*) relieves the ministries of their obligation to post proposals for public comment in certain situations.

There are two main instances in which ministries can post exception notices instead of regular notices. An exception notice informs the public of a decision and explains why it was not posted for public comment.

Ministries are able to post an exception notice under Section 29 of the *EBR* where the delay in giving public notice would result in danger to public health or safety, harm or serious risk to the environment, or injury or damage to property (emergency exception). Ministries can also post an exception notice under Section 30 of the *EBR* when the proposal will be or has already been considered in another public participation process that is substantially equivalent to the requirements of the *EBR* (equivalent public participation exception).

This section summarizes the ECO's review of the ministries' exception notices posted during 2000/2001.

Section 4 - Decision Reviews

Each year the ECO reviews a sampling of the environmentally significant decisions made by the provincial ministries prescribed under the *EBR*. During the 2000/2001 reporting year, more than 1,600 decision notices were posted on the Environmental Registry by Ontario ministries. The extent to which the ECO reviews a ministry decision depends on its environmental significance and the public's interest in the decision.

This section of the annual report consists of detailed reviews undertaken by the ECO for 32 selected ministry decisions posted during 2000/2001.

Section 5 - Application Reviews

Under the *EBR* Ontario residents can ask government ministries to review an existing policy, law, regulation or instrument if they feel the environment is not being protected, and/or they can request ministries to review the need for new law, regulation or policy. The public can also ask ministries to investigate alleged contraventions of environmental laws, regulations and instruments.

The ECO is responsible for reviewing applications for completeness, and for forwarding them to the appropriate ministry. Each reporting year the ECO reviews and reports on the handling and disposition of applications by ministries. This section provides a summary of all the applications for review and applications for investigation reviewed by the ECO in 2000/2001.

Section 6 - *EBR* Leave to Appeal Applications

Ontario residents have the right under the *EBR* to seek leave to appeal with respect to a decision on certain instruments of environmental significance within 15 days of a ministry's placing a decision on the Environmental Registry. The ECO is responsible for posting notice of a leave to appeal on the Registry and for updating the notice to report the decision of the appropriate appeal tribunal.

This section provides a summary of the leave to appeal applications under the *EBR* that were received within the 2000/2001 reporting year.

Section 7 - *EBR* Court Actions

Under Section 84 of the *EBR*, residents of Ontario have the right to bring a legal action against someone who is violating or is about to violate an environmental Act, regulation or instrument, and is harming, or about to harm, a public resource. In addition, anyone who suffers, or who may suffe, a direct economic loss or personal injury as a result of a public nuisance that caused harm to the environment, may bring a legal action under Section 103 of the *EBR*. The ECO is responsible for posting notices of court actions on the Registry for information purposes only.

This section provides a summary of the court action activities that took place during the 2000/2001 reporting year. There were no whistle-blower actions during the reporting year.

Section 8 - Undecided Proposals

The ECO is required under Section 58(c) of the *EBR* to include in its annual report a list of all proposals posted on the Environmental Registry within the reporting period (April 1, 2000, to March 31, 2001) which were not decided by May 22, 2001. This section provides this list in two components: A) Policies, Acts and Regulations, and B) Instruments.

S1. -

ECO REVIEW: UNPOSTED DECISIONS IN 2000/2001

S1
ECO REVIEW: UNPOSTED DECISIONS IN 2000/2001

Ministry of Agriculture, Food and Rural Affairs (OMAFRA) - Legislation

Prescribing Proposed Intensive Farming Legislation and Standards

Description

- In July 2000, OMAFRA updated an earlier Registry notice (TC00E0001) to inform the public that the minister had released a proposal for "clear, enforceable province-wide legislation regulating agricultural operations."
- The proposal was based, in part, on the findings of the Task Force on Intensive Agricultural Operations in Rural Ontario, which held public consultations in early 2000.
- The Registry notice stated that the government would consult on the proposed legislation during summer 2000 in preparation for introduction of a bill for first reading in the fall of 2000, and that provincial standards regarding agricultural practices such as manure handling and storage would be developed by regulation.
- The ECO wrote OMAFRA, urging the ministry to prescribe under the *EBR* any new legislative amendments to existing legislation or standards established by regulation.

Ministry Rationale

- OMAFRA responded that it was premature to commit to prescribing proposed legislation under the *EBR* and that after receiving comments the ministry would be in a position to make an informed decision about whether or not to prescribe.
- On June 13, 2001, OMAFRA introduced Bill 81, the proposed *Nutrient Management Act, 2001*. The proposed Act was posted on the Registry on June 15, 2001, for a 60-day comment period.

ECO Comment

- The ECO will monitor the development of standards under the proposed Act, as well as OMAFRA's progress in prescribing this Act under the *EBR*.

Ministry of the Environment (MOE) - Legislation

Proposed Legislation on Waste Diversion

Description

- In December 2000, the Minister of the Environment announced his intention to introduce legislation in the spring 2001 session of the legislature to create a permanent waste diversion organization; establish a cost-sharing agreement between municipalities and industry to pay for Blue Box programs; and provide a mechanism to ensure payment for recycling programs by all affected industries.
- MOE's press release stated that there would be upcoming consultation about: the types of packaging to be covered by the new legislation; minimum thresholds for industry participation (small-quantity exemptions); household special wastes; organics diversion; the governance of a permanent waste diversion organization
- The ECO wrote MOE to urge it to post proposed legislative amendments to the *EPA* on the Registry for public comment at the earliest possible opportunity.

Ministry Rationale

- On June 26, 2001, MOE introduced Bill 90, the proposed *Waste Diversion Act, 2001*. The proposed Act was posted on the Registry on June 27, 2001 for a 60-day comment period.

ECO Comment

- The ECO will monitor the progress of this draft legislation.

Ministry of the Environment (MOE) - Policies

Air Quality Ontario Initiative

Description

- In May 2000, MOE launched its Air Quality Ontario Web site.
- However, the site lacked important historical air quality monitoring data previously made available by the ministry.
- Reduced public access to historical air monitoring data constitutes a ministry policy decision under the *EBR*.

Ministry Rationale

- MOE responded that, due to computer system capacity issues experienced during the first phase of Web site development, MOE traded the provision of historical data for other items such as Smog Watch forecasts and more frequent Air Quality Index (AQI) readings.
- MOE recognizes the importance of the historical air quality data and plans to provide daily AQI readings for the entire 2001 smog season on the Air Quality Ontario Web site.

ECO Comment

- ECO will monitor the ministry's progress in meeting this commitment.
- For more information please refer to pages 65-71of the annual report.

Moratorium on Sale of Coal-Fired Generating Stations

Description

- In May 2000, MOE announced that it was placing a moratorium on the sale of all coal-fired generating stations pending a review of options for environmental protection.

Ministry Rationale

- MOE responded that it did not provide an opportunity for public comment through the Environmental Registry because the moratorium ensures the status quo and shows a commitment to the environment.
- MOE was aware of public concerns about the possible sale of coal-fired plants and decided a moratorium was prudent because the ministry did not want to carry any risk that a change of ownership might have an unforseen influence on environmental decisions.
- The ministry advised that it would post the conditions on the Registry if the proposed environmental protection measures include conditions of sale on any, or all, coal-fired power plants.

ECO Comment

- Even proposals with potentially positive environmental effects should be posted on the Registry.
- Given the impacts of coal-fired electricity generation, and the environmental significance of modifying their operation, MOE should have provided for public input into the ministry's moratorium and review of environmental options.
- MOE's March 26, 2001 Registry notice (RA01E008) for a proposed regulation to require the Lakeview Thermal Generating Station to cease burning coal by April 2005 does not replace the benefits of public input at the earlier policy development stage.
- For more information please refer to page 36 of the annual report.

Cancellation of MOE's Acid Rain Monitoring Program

Description

- Effective April 2000, MOE shut down its network of acid deposition monitoring stations as a cost-saving measure.

Ministry Rationale

- MOE's first written response to an ECO inquiry provided useful details about the ministry's approach to acid rain, but failed to answer the ECO's questions regarding matters such as MOE's determination of environmental significance, consideration of its Statement of Environmental Values (SEV), or why the ministry failed to post a notice on the Registry for comment.
- MOE's response to ECO's second inquiry letter stated that "changes to the Acid Rain Monitoring Network were instituted to reduce duplication of effort with Environment Canada of precipitation monitoring in the province. The changes also allow resources to be redirected to biological and chemical assessment studies in acid-sensitive watersheds."
- The ministry also noted that it integrates SEV considerations into daily business and that decisions of this nature are often the result of much negotiation and discussion with interested parties.

ECO Comment

- MOE failed to explain adequately its reasons for failing to post this environmentally significant policy change on the Registry for public comment, nor did the ministry adequately explain consideration of its SEV.
- MOE staff appear to misunderstand the *EBR* requirements with respect to SEV consideration
- The public deserved an opportunity to provide input as part of the ministry's "negotiation and discussion with interested parties" on this matter.
- For more information please refer to page 35 of the annual report.

Provincial Groundwater Monitoring Network

Description

- In October 2000, MOE announced the establishment of a groundwater monitoring network (GMN) to "provide more information for decision making on water takings, drought management, protection of water quality, land use planning and related health and safety issues."

Ministry Rationale

- The ministry summarized details relating to the GMN and noted that the Network is part of a comprehensive, multi-disciplinary range of actions being developed as part of a groundwater strategy.
- MOE noted that the "infrastructure required to operate such a comprehensive monitoring network was posted on the Registry in July 2000 (PB00E6011) by MNR as the lead on the Ontario Water Response Initiative."
- MOE also referred to other water-related Registry notices but these have little to do with the monitoring network itself.
- MOE stated that development of the GMN is consistent with its SEV and an ecosystem approach that links land, air and water.
- The ministry admitted that it is conducting "extensive stakeholder consultation" on the development of the GMN.

ECO Comment

- Even proposals with potentially positive environmental effects are subject to the requirements of the *EBR*.
- MOE should have posted a notice on the Registry and allowed Ontarians a chance to comment on the Network's development, concurrent with other stakeholder consultation.

- For an update on issues related to groundwater, please refer to pages 84-88 of the annual report.

Proposed Changes to MOE's Sampling Requirements for Drinking Water

Description

- The ECO became aware that the ministry was developing a standard or regulation that would change the sampling requirements for drinking water distribution systems, including an increase to the required sampling frequency.

Ministry Rationale

- The ministry's Drinking Water Protection regulation was posted on the Registry as an emergency notice (RA00E0014) in May 2000.
- MOE will meet *EBR* requirements for a Registry notice once the regulation has been filed.
- Future activities will be posted expeditiously.

ECO Comment

- MOE is working on new water testing and reporting requirements for small-scale water providers.

Proposed Program to Make Drinking Water Testing Information Available to the Public

Description

- The ECO became aware that the ministry was developing a program that would make drinking water testing information collected by the ministry available to the public on an ongoing, regular basis.
- This matter is related to the publication of adverse water quality incidents released by the ministry.

Ministry Rationale

- MOE placed information on adverse water incidents on its Internet site and provided information about this availability on the Registry as an information notice.
- The ministry is proceeding with improving its system for regular disclosure of water-testing results.

ECO Comment

- MOE is working on new water testing and reporting requirements for small-scale water providers.

Time Extension for the Application of Septic Tank Waste to Agricultural Land

Description

- In May 2000, ECO learned that MOE had decided to extend most approvals for the application of septic tank waste on agricultural land until June 2002.
- Apparently MOE added extensions of these approvals (instruments) as schedules to the waste system Certificates of Approval issued to septic waste haulers under Section 27 of the *EPA*.

Ministry Rationale

- MOE relied on the *EBR*'s exception for matters that are predominantly financial or administrative and stated that MOE was not establishing or developing a new policy, but rather setting a target date to complete the administrative transfer of a program.
- The instruments (approvals) were a necessary result of amendments made to the *EPA* in which some of the Act's provisions relating to sewage systems (under Part VIII) were transferred to the waste management portion of the Act (Part V).
- The instruments were already in effect under Part VIII of the *EPA*.
- The regulation addressing the transition within the *EPA* was posted on the Registry (RA8E0013) and permits haulers to continue operating their existing system and site approvals, which were previously issued

under Part VIII of the *EPA*.

- MOE did not complete the administrative transfer of previously approved sites by the original target date, and, therefore, haulers who applied to MOE for a renewal were granted an extension until June 2002.

ECO Comment

- The ECO accepts the ministry's response but will follow this issue closely in the coming year.
- For more information on environmental concerns related to the hauling and spreading of septage, please refer to pages 48-56 of the annual report.

Revisions to Biosolids Guidelines

Description

- In the fall of 2000, the ECO learned from stakeholders that MOE and OMAFRA may be revising the current Biosolids Guidelines, which date from 1996.
- In 1996, MOE posted a decision on the Biosolids Guidelines on the Registry.
- The ECO's 1998 annual report referenced these Guidelines in its review of recycling pulp and paper mill wastes and noted that the Guidelines are vague on key points such as pulp and paper mill sludges, industrial organic contaminants, and the ministries' targets for reducing application rates of metals to soil.
- The ECO copied OMAFRA on its inquiry letter to MOE.

Ministry Rationale

- The minister did announce a review of policies regarding the land application of nutrients including sewage biosolids, septage and pulp and paper sludge, and MOE is working with the ministries of Agriculture, Food and Rural Affairs and Municipal Affairs and Housing.
- MOE will consider its SEV while conducting its review.
- The ministry has consulted with key stakeholders and "will consult formally through the *EBR* process in the late spring or early summer" of 2001.

ECO Comment

- Public participation is most meaningful when it occurs early in the decision-making process.
- The ECO looks forward to a Registry notice in the near future that will provide the public with an opportunity to provide input into Guideline development and allow for review of scientific or other information that the ministries will be relying on in the process of revising the Biosolids Guidelines.
- For more information on this issue, please refer to pages 48-56 of the annual report.

Protocol to Address Environmental Complaints Regarding Pit and Quarry Operations in the Province of Ontario Between the Ministry of Natural Resources and Ministry of Environment

Description

- In 2000, MOE and MNR developed a protocol to streamline the handling of complaints about pit and quarry operations.
- According to the Protocol, the business approaches of MNR's Aggregate Resources Program and MOE's Procedures for Responding to Pollution Incident Reports require the cooperation of both ministries to ensure that when the public lodges a complaint regarding an aggregate pit and/or quarry operation, the complaint is handled in an expeditious, fair and efficient manner.
- The Protocol is designed to clarify how MOE and MNR will work together on compliance issues involving the *Aggregate Resources Act*, *Ontario Water Resources Act* and *Environmental Protection Act*.

Ministry Rationale

- In its response, MOE states the following:
  - "The protocol, which was signed by Assistant Deputy Ministers from both ministries is a document to ensure effective service delivery by providing clarity of roles and responsibilities in

the two ministries."

- "The protocol ensures duplication of effort is eliminated while complaints are handled expeditiously, effectively and efficiently. For example, the protocol document outlines which agency should respond to a particular type of complaint and when one ministry will provide technical support for the lead agency."
- "This document is not a policy but a renewal and clarification of the process that had been in place with the Ministry of Natural Resources since the 1998/1999 aggregate season."

ECO Comment

- The protocol appears environmentally significant. While the process set out in the protocol could lead to increased efficiencies, it could also result in delays in the investigation of environmental complaints related to pit and quarry operations.
- The public deserved to be informed of this initiative.
- Also refer to the entry under MNR in this section of the Supplement.

Ministry of Municipal Affairs and Housing (MMAH) - Legislation

Proposed Legislation on Brownfield Development

Description

- In March 2001, the minister announced his intention to introduce legislation in spring 2001 to encourage "the environmental cleanup and revitalization of former industrial or commercial sites known as brownfields."
- The MMAH news release stated that new rules for brownfield cleanup would protect the public and the environment, and noted that the proposed legislation would streamline planning processes to expedite brownfield projects and help municipalities provide financial support for site assessment and cleanup costs of brownfields.
- The legislation is likely to include many recommendations made to the government by an advisory panel established in September 2000.
- The ECO wrote to MMAH urging that the proposed new legislation be posted on the Registry for public comment.

Ministry Rationale

- MMAH responded by noting that it had been researching brownfield development for some time.
- The ministry stated that as soon as the government made a final decision on the proposed policy constructs of this environmentally significant legislation, the public notice and comment requirements of the *EBR* would be completely fulfilled.
- MMAH and MOE jointly developed the proposed Bill 56, *Brownfields Statute Law Amendment Act* and in May 2001 each ministry posted a notice for public comment on the Registry.

ECO Comment

- The ECO is pleased that both ministries posted proposal notices on the Registry in May 2001 and will monitor development of this legislation over the coming year.

Ministry of Municipal Affairs and Housing (MMAH) - Policies

Role of the Greater Toronto Services Board (GTSB) for Transportation Planning in the Greater Toronto Area (GTA)

Description

- In response to ECO research inquiries Ministry of Transportation (MTO) staff advised the ECO that the GTSB was now responsible for GTA transportation planning instead of MTO.

- MMAH was involved in drafting legislation that created the GTSB and provided initial funding for the Board's administrative expenses during its first year of operation.
- ECO staff wrote to inquire about MMAH's perspective on whether or not the GTSB was now assuming responsibility for transportation planning in the GTA.

Ministry Rationale

- MMAH states "that the government did not transfer responsibility for overall transportation planning to the GTSB."
- MMAH also states that GO Transit "is the only area of transit planning for which the Board has responsibility at the present time."

ECO Comment

- Please refer to the similar entry under MTO in this section of the Supplement.
- MMAH and MTO have provided the ECO with conflicting descriptions of how responsibilities are now divided between MTO and the GTSB.
- If the transfer of GTA transportation planning responsibility did take place, then MTO did not inform the public, either through a news release or a notice on the Environmental Registry. This lack of transparency is not in keeping with the intent of the *EBR*.
- For more information about transportation planning in the GTA, please refer to pages 57-64 of the annual report.

Objective-Based Building Code (OBBC)

Description

- Ontario (through MMAH) is working closely with the Canadian Commission on Building and Fire Codes and the National Research Council in establishing a new approach to code development and review in Canada.
- In addition to the primary objectives of health, safety, accessibility and the protection of buildings, proposed objectives for the Ontario Building Code are "environmental integrity and resource conservation" (including water conservation and energy efficiency).
- For more information see page 38 of the annual report.

Ministry Rationale

- MMAH was already in the process of posting a notice of this consultation on the EBR Registry when the ECO's inquiry letter arrived.
- Information about the OBBC consultation is already on the ministry's Internet site and could be considered equivalent public participation to a notice placed on the Registry.
- MMAH is using the Registry as an additional venue to increase the involvement and awareness of stakeholders in consultation.
- Consultation on the proposed objectives for the Ontario Building Code is not environmentally significant; however, the ministry acknowledges that objectives included as part of the consultation (environmental integrity and resource conservation) would protect the environment if included in the Ontario Building Code.
- MMAH will inform the public of the results and recommendations of the consultation.

ECO Comment

- MMAH did not post a regular notice for public comment under Section 15 of the *EBR* as requested by the ECO and instead relied on an information notice under Section 6 *EBR*.
- As explained in more detail on page 38 of the annual report, a notice under Section 6 of the *EBR* is not appropriate when a regular notice should be used to obtain public comment.
- The ECO takes the position that proposed changes represent an environmentally significant policy change that should have been posted as a regular notice on the Registry.
- In 1996, MMAH posted a regular notice on the Registry under Section 15 of the *EBR* for a similar consultation exercise, entitled: *Back to Basics: A Consultation Paper on the Focus of the Ontario Building*

Code.

- If MMAH felt that, through the ministry's Internet site, it was engaging in equivalent public participation for an environmentally significant policy, the ministry should have posted a notice of equivalent public participation under Section 30 of the *EBR* in accordance with ECO guidance on use of exceptions (dated June 1998).

Ministry of Municipal Affairs and Housing (MMAH) - Regulation

Regulation Setting Out Zoning Orders Under the *Planning Act*

Description

- O. Reg. 690/00, which was published in the Ontario Gazette on Jan. 6, 2001, made a zoning change permitting the construction of a golf course in Pickering.
- This regulation was excepted properly from posting because Part II of the *EBR* does not apply to Minister's Zoning Orders (MZOs).
- However, a similar regulation which made a zoning change to permit construction of an agricultural storage building had previously been posted as an exception notice.
- In the interest of promoting consistency and clarity on the Registry, the ECO wrote to MMAH in March 2001 urging it to post this regulation and others like it as exception notices.

Ministry Rationale

- MMAH responded by saying that it posts exception notices for all MZOs on the Registry.
- MMAH confirmed that this notice was in the process of being posted, and emphasized that there is no required time frame for the posting of MZO exception notices.

ECO Comment

- MMAH has posted O. Reg. 690/00 on the Registry as an exception notice on April 25, 2001.
- Despite the fact that there is no required time frame for posting MZO exception notices, the ECO urges to MMAH to post them as promptly as possible in order to keep the public informed of zoning changes.

Ministry of Natural Resources (MNR) - Policies

Confirmation Procedure for Areas of Natural and Scientific Interest (ANSIs)

Description

- MNR's ANSI Confirmation Procedure states that the procedure is required to ensure:
  - a consistent province-wide approach when identifying new ANSIs, modifying or deleting existing ANSIs, and confirming the status and boundaries of ANSIs
  - timely and appropriate contact with affected landowners
  - clearly defined roles and responsibilities within MNR relating to ANSI issues
- MNR posted an information notice to inform the public about the procedure instead of posting a regular notice for public comment.

Ministry Rationale

- MNR responded to two letters from the ECO. MNR acknowledges that the Confirmation Procedure was

developed to address concerns that the steps and procedures used by the ministry to confirm ANSIs have changed since 1983 and were not always applied consistently across the province. But, MNR maintains that the standardization of the procedure does not reflect a policy shift and that the procedure is essentially administrative in nature.
- Please also refer to Ministry Comments in the annual report.

ECO Comment
- As explained in more detail on page 39 of the annual report, ECO research shows that MNR's steps and procedures have changed since 1983, reflecting a shift in policy direction, and that these changes are environmentally significant.
- MNR should have posted a regular notice for public comment under Section 15 of the *EBR* .

Policy - Revised Interpretation and Guidelines, Condition 77 of the Class Environmental Assessment for Timber Management (Class EA)

Description
- Condition 77 of the Timber Management Class EA requires MNR District Managers to conduct negotiations with local Aboriginal communities.
- MNR's compliance with Condition 77 has been the subject of several requests for investigation under the *EBR*.

Ministry Rationale
- The draft Revised Interpretation and Guidelines (RIGs) are predominantly financial and administrative, and are therefore not environmentally significant.
- The draft RIGs do not shape decisions that could have a significant effect on the environment because they are not decisions about how forests are to be managed (this occurs through the statutory requirements of the *Crown Forest Sustainability Act* and its regulations, the Forest Management Planning Manual and other various guidelines).
- Decisions made in negotiations between MNR District Managers and an Aboriginal Community about how the social and economic benefits of forest management are to be allocated must be consistent with the environmentally significant direction established in the relevant forest management plan.

ECO Comment
- The Guidelines are environmentally significant because they provide MNR's new interpretation of one of the terms and conditions of MNR's Timber Management Class Environmental Assessment approval under the *EA Act*.
- MOE said in the results of its EBR investigation into MNR's compliance with Condition 77 that MNR had committed to having a revised draft of the document available for public comment in the spring of 1999.
- The ECO has received complaints that MNR was not providing a broad opportunity for comment on this Guideline.
- The ECO maintains that MNR should have posted the Guideline on the Registry for public comment.

Policy - Implementation Forest Guidelines/Directives (Forest Resource Processing Facility Licences - Interim Procedures)

Description
- MNR added to the Forest Management Directives and Procedures Handbook 15 procedures relating to forest resource processing facility licence requirements under Ontario Regulation 167/95 and the *Crown Forest Sustainability Act*.
- It appears that these procedures reflect major changes to MNR's program direction, which are being implemented by staff on an interim basis.
- In the past, MNR assured the ECO that any environmentally significant changes or additions to the FMDP

Handbook would be posted on the Registry for public comment.

Ministry Rationale

- MNR states its general belief that procedures describing a sequence of tasks to be performed by different ministry personnel and the content of application forms are not policy as the *EBR* defines it.
- Specifically, MNR believes that the procedures do not constitute a policy (they set out how policies, programs and related activities will be delivered), nor do they meet the test of environmental significance.
- The ministry maintains that the procedures are predominantly financial and administrative in nature.

ECO Comment

- Calling the documents guidelines, procedures and directives does not mean they are not policies for the purposes of the *EBR*
- The ECO is concerned that MNR's overhaul of roughly 400 forest management policies has not received broad public consultation.
- During the 2001/2002 reporting year, the ECO will review MNR's new policies as they are finalized to determine their environmental significance.
- The ECO urges MNR to consider most forest management policies as environmentally significant and to post any revocations, revisions and new policies on the Registry for public comment .

Ontario Water Response 2000

Description

- In response to the extended period of low water levels and dry soils experienced in southwestern and eastern Ontario in the spring and summer of 1999, the government prepared a draft drought response plan entitled Ontario Water Response 2000 (OWR 2000).
- The draft OWR 2000 document describes how streamflow and rainfall will be monitored to assess and classify drought into varying levels of severity, and how response actions will be matched to those levels.
- The ECO wrote to MNR expressing concern with the lack of Registry notice for OWR 2000 since the Minister of Natural Resources and the press had reported on implementation of the drought response approach.

Ministry Rationale

- The ministry was planning to post a Registry notice when it received the ECO's letter.
- MNR states that, prior to the reported implementation, the ministry ensured input into the draft document as it was being developed by engaging two major stakeholders (Conservation Authorities and Municipalities) to participate in the process directly.

ECO Comment

- The ECO is pleased that MNR posted a proposal notice in July 2000, to gather public input into OWR 2000.
- However, the ministry should have sought public input while developing the drought response measures, not after their reported implementation.
- Please refer to page 85 of the annual report for more information.

The Wolves of Algonquin Park

Description

- MNR posted an information notice on the Registry inviting public comment on the recommendations of an advisory committee studying the need for special protection and conservation measures for the wolves of Algonquin Provincial Park.

Ministry Rationale

- MNR maintains that the recommendations of the Advisory Committee presented in the report do not represent a ministry policy proposal and thus MNR is not required to post them for comment as a regular notice under Section 15 of the *EBR*.

ECO Comment

- In 1998, MNR articulated a clear interest in the development of a conservation strategy for the gray wolf in and around Algonquin Park through establishment of the Wolf Advisory Committee.
- In 1999, the ministry made a commitment to the ECO that the "new environmentally significant policy direction that is recommended by the advisory committee and is being considered for implementation by the Minister will be posted on the Registry for public comment for at least 30 days."
- In 2000, the Report prepared by the Algonquin Wolf Advisory Committee, which included membership from MNR, recommended an adaptive management strategy to conserve Algonquin Park wolves and set out 24 specific recommendations that relate to actions and programs, both inside and outside Algonquin Park.
- The Report's recommendations are environmentally significant and may result in the development or revision of other environmentally significant policies and decisions.
- MNR should have posted a regular notice for public comment, concurrent with the request for comment on its Internet site.
- Please refer to page 37-39 of the annual report for a description of the differences between regular Registry notices and information notices.

Protocol to Address Environmental Complaints Regarding Pit and Quarry Operations in the Province of Ontario Between the Ministry of Natural Resources and Ministry of Environment

Description

- In 2000, MOE and MNR developed a protocol to streamline the handling of complaints about pit and quarry operations.
- According to the Protocol, the business approaches of MNR's Aggregate Resources Program and MOE's Procedures for Responding to Pollution Incident Reports require the cooperation of both ministries to ensure that when the public lodges a complaint regarding an aggregate pit and/or quarry operation, the complaint is handled in an expeditious, fair and efficient manner.
- The Protocol is designed to clarify how MOE and MNR will work together on issues involving the *Aggregate Resources Act*, *Ontario Water Resources Act* and *Environmental Protection Act*.
- The ECO wrote to both ministries to inquire why the Protocol was not posted on the Registry.

Ministry Rationale

- MNR stated that it did not post a proposal notice for the protocol on the Environmental Registry because the ministry felt that the protocol did not meet the tests of being a "policy", as defined in subsection 1(1) of the *EBR*, or "environmental significance", as set out in section 14 of the *EBR*.
- MNR also indicated that the protocol does not change MNR's current approach for compliance in the aggregates program and serves to clarify the existing role and legislative responsibilities of MNR and MOE in order to handle complaints in an expeditious, effective and efficient manner.

ECO Comment

- The protocol appears environmentally significant. While the process set out in the protocol could lead to increased efficiencies, it could also result in delays in the investigation of environmental complaints related to pit and quarry operations.
- The public deserved to be informed of this initiative.
- Also refer to the related entry under MOE in this section of the Supplement.

Ministry of Transportation (MTO) - Policies

Role of the Greater Toronto Services Board (GTSB) for Transportation Planning in the Greater Toronto Area (GTA)

Description

- In response to ECO research inquiries, Ministry of Transportation (MTO) staff noted that the GTSB was now responsible for GTA transportation planning (not MTO).

Ministry Rationale

- MTO has informed the ECO that in the GTA, the ministry is responsible for planning and policies related to the provincial highway network, implying that the ministry's responsibilities do not include transit planning or overall planning coordination.
- MTO has also explained to the ECO that "In addition, the Greater Toronto Services Board was given the responsibility for the operation of an overall network planning for transportation planning among the GTSB's constituent municipalities...Prior to the creation of the GTSB, the Ministry did often act in a co-ordintaing role when there were inter-regional activities."

ECO Response

- Please refer to the similar entry under MMAH in this section of the Supplement.
- MMAH and MTO have provided the ECO with conflicting descriptions of how responsibilities are now divided between MTO and the GTSB.
- If the transfer of GTA transportation planning responsibility did take place, then MTO did not inform the public, either through a news release or a notice on the Environmental Registry. This lack of transparency is not in keeping with the intent of the *EBR*.
- For more information about transportation planning in the GTA, please refer to pages 57-64 of the annual report.

New Approach to Long-Term Transportation Planning ("Needs Assessment Studies")

Description

- During this reporting year, MTO announced it had changed its approach to long-range transportation planning (now called Needs Assessment Studies or "NASs")
- It became clear to ECO staff that MTO did not intend to obtain public input on the NASs by posting them on the Registry as MTO policy proposals.

Ministry Rationale

- In responding to research inquiries, MTO staff informed the ECO that it does not consider NASs to be policy proposals for the purposes of the *EBR*.
- MTO takes the position that NASs result in numerous recommendations (ranging from doing nothing to initiating major transportation improvements), and if a particular NAS indicates the need for a new transportation facility, an environmental assessment will proceed with public and stakeholder consultation.
- MTO has told the ECO that it will post information notices on the Environmental Registry for NASs and that it will release the findings from all NASs for public review and comment.

ECO Comment

- The public deserves a chance to comment on transportation alternatives early, through the Registry, because the decision on whether or not to build a highway, or to proceed with other options, will have long-lasting implications for provincial and local ecosystems, human health (related to transportation air emissions), and local and regional economic development.
- A previous draft transportation plan (Southwestern Ontario Transportation Perspective) was posted on the Registry (PE6E4501) as a proposal in April 1996 and as a decision in October 2000.
- For more information please refer to pages 57-64 of the annual report.
- Please also refer to pages 37-39 of the annual report for a description of the differences between regular Registry notices and information notices.

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S2. -

ECO REVIEW: MINISTRIES' USE OF INFORMATION NOTICES

S2

ECO REVIEW: MINISTRIES' USE OF INFORMATION NOTICES

Ministry of the Environment (MOE) - Policies

Adverse Water Quality Incident Reports

EBR Registry # PA00E0026
Comment Period: none

Description

- Adverse Water Quality Incident Reports are supplied to the Ministry of the Environment after local water supplies have been tested and show adverse results that include E.coli, fecal coliform or boil water advisories/orders.

ECO Comment

- Acceptable use of an information notice.
- Information notice went beyond the ECO's request to MOE in July 2000 that MOE place documents related to adverse water incidents on the ministry's Internet site as soon as possible.
- The ECO's request was part of correspondence urging MOE to post on the Registry its proposed program to make drinking water testing information available to the public.
- The notice stated that the ministry would post new or updated reports on water quality findings supplied to the ministry as they are made available, but did not clarify if these postings would be on the ministry's Web site or the Registry.
- For more information please refer to pages 110-112 of the annual report and Supplement section S1.

SWAT Team

EBR Registry # PA00E0030
Comment Period: none

Description

- The Ministry of the Environment is creating a mobile compliance, inspection and enforcement SWAT team to deal with deliberate and repeat polluters and to promote compliance with Ontario's environmental laws.

ECO Comment

- Acceptable use of an information notice.
- The notice should have better explained the reason for using Section 6 of the *EBR* instead of a regular notice for public comment.
- The creation and staffing of positions within the ministry is an administrative decision.

Air Standards, Risk Management and Dispersion Models
EBR Registry # PA9E0002
Comment Period: none

Description

- In response to stakeholder comments, MOE provided this notice to summarize and explain the linkages between the ministry's decision notices for the 18 new air standards (and one proposed standard) and the two policy proposals that relate to air standard implementation and management.

ECO Comment

- Acceptable use of an information notice.
- Notice links together many of the ministry's air quality proposal and decision notices and therefore provides a useful public service on important environmental initiatives.

Ministry of the Environment (MOE) - Regulations

Revised Drive Clean Guide Ontario Regulation 361/98
EBR Registry # PB00E0036
Comment Period: none

Description

- The Drive Clean Guide contains emissions standards, methods, and technical information for the Drive Clean Program.
- The ministry re-issues the Guide to update technical changes to emission standards or testing procedures as necessary.

ECO Comment

- Acceptable use of an information notice.
- The ECO accepts that re-issuance of this guide is administrative in nature.
- Other proposed changes to the Drive Clean Program have been posted on the Registry for public comment.

Amendment to the *Environmental Protection Act* (*EPA*) to Include Provision for Same Sex Spouses
EBR Registry # RA00E0011
Comment Period: none

Description

- An administrative regulatory amendment was required to implement a Supreme Court of Canada decision by substituting the words "spouse or same-sex partner" for the word "spouse" in Regulation 360 under the *EPA* and then defining "same-sex partner" and "spouse".

ECO Comment

- Acceptable use of an information notice.
- Clearly an administrative change to the *EPA*.
- A link to the regulation should have been provided as indicated in the text of the notice.

Ministry of the Environment (MOE) - Instruments

Air Approval
Section 9 *EPA*
Process Changes Without Further Amendment to the Facility-Wide Approval for Discharge
General Motors, Oshawa
EBR Registry #
IA00E0615
IA00E1398
Comment Period: unclear (see below)

Description

- The facility-wide Certificate of Approval (CofA) allows the company to make process changes without seeking prior approval (and CofA amendments) from MOE, as long as there is ongoing demonstration of compliance with Ontario air standards.
- The notice said MOE plans to use public comments received in response to these exception notices in the ministry's ongoing monitoring of GM's compliance with the facility-wide CofA.

ECO Comment

- The ECO will monitor how MOE's use of facility-wide approvals may affect the public comment opportunities of the *EBR*.
- Original facility-wide Certificate of Approval was posted on the Registry for comment in May 1999 (Registry # IA9E0572).
- While the notices said they provided a 60-day comment period, notice IA00E0615 was posted after the comment period expired and notice IA00E1398 failed to specify a comment period.

Kinectrics (Ontario Power Generation Subsidiary) Mobile PCB Destruction
Waste Disposal Approval Section 27 *EPA*; Air Approval Section 9 *EPA*
City of Toronto
EBR Registry # IA01E0027
Comment Period: 30 days

Description

- The company requested a temporary amendment to the existing waste disposal Certificate of Approval (A280307) and a Certificate of Approval (Air) under Section 9 of the *Environmental Protection Act* to allow for a series of waste destruction tests using a mobile plasma technology. This technology uses very high temperatures to break down PCBs into their atomic state.

ECO Comment

- Acceptable use of information notice.
- Notice should have included more detail about the proposed activity and about the *Environmental Assessment Act* (*EAA*) approval or exemption being referred to.
- In response to the ECO's request, MOE provided additional information - specifically a copy of Order-in-Council 2887/76, exempting Ontario Hydro from *EAA* requirements for "the program of planning, designing, constructing, operating and maintaining in order to upgrade, rehabilitate or expand transformer or switching stations on existing sites, other than upgrading, rehabilitation or expansions which increase the facility's nominal voltage 230 kilovolts or less to more than 230 kilovolts."
- Ontario Regulation 173/99 under the *EAA* (Registry # RA9E0004) makes Ontario Hydro's Exemption Orders applicable to successor companies.
- Even if Section 32 of the *EBR* did not apply, a proposal under Section 27 of the *EPA* for approval for

mobile waste processing equipment is not prescribed according to Regulation 681/94 of the *EBR*.

Requirement for Director's Report for Operation of Water Works
Section 62(1) *Ontario Water Resources Act* (*OWRA*)
City of Quinte West
EBR Registry # IA01E0048
Comment Period: 20 days

Description

- Proposal for MOE to issue a Report of the Director to the City of Quinte West that would require the city to take all steps necessary to properly operate and maintain the water works servicing the Trenton Mobile Trailer Park (also known as Bay Breeze Mobile Park) in accordance with the *Ontario Water Resources Act* and Ontario Regulations 435/93 and 459/00.
- The current owner had not complied with the legislation and had failed to comply with a Provincial Officer's Order with respect to the operation of the water works.

ECO Comment

- Acceptable use of an information notice provided that this was an instrument issued in accordance with other statutory decisions including the *Environmental Assessment Act* (*EAA*).
- MOE should have provided clearer information on the *EAA* approval or exemption being referred to so that the reader could understand whether or not an approval under the *EAA* had been granted for this sewage treatment works.
- The notice does not adequately explain why the Registry notice was not posted concurrently with other notice that was given to local residents or park tenants.

Requirement for Director's Report for Operation of Water Works
Section 62(1) *OWRA*
Town of Lincoln
EBR Registry # IA01E0375
Comment Period: 18 days

Description

- MOE issued an order under Section 62 of the *Ontario Water Resources Act* to the Town of Lincoln requiring the municipality to install and operate a sanitary sewage collection system and pumping station in the Hamlet of Campden by September 30, 2001.

ECO Comment

- Acceptable use of an information notice.
- Notice states that the Town of Lincoln is subject to the requirements of the *Environmental Assessment Act* (Class EA for Municipal Sewage and Water), and as such, there is no Registry notice requirement for this instrument.
- Notice indicates that the Town of Lincoln received the necessary MOE approvals but had expressed reluctance to proceed with the facility due to funding concerns.

Ministry of Natural Resources (MNR) - Policies

Confirmation Procedure for Areas of Natural and Scientific Interest

EBR Registry # PB00E6002
Comment Period: none

ECO Comment

- Unacceptable use of an information notice.
- The ECO considers this to be an environmentally significant policy subject to the public notice and comment requirements of the *EBR*.
- Please refer to page 39 of the annual report, Ministry Comments in this year's annual report, and Supplement section S1 for further information.

Great Lakes Heritage Coast Project

EBR Registry # PB00E6006 (posted in April 2000 and updated in August 2000)
Comment Period: 30 days (April 2000); 50 days (August 2000)

Description

- MNR was consulting with the public to identify possibilities for protecting, promoting and ensuring complementary community development along the heritage coast.
- The heritage coast includes all of the Ontario coastline of Lake Superior, the north shore of the St. Mary's River, the north shore of Lake Huron and the eastern coast of Georgian Bay.

ECO Comment

- Acceptable use of an information notice.
- In keeping with MNR's commitment made in the notice, the ECO expects the ministry to post a regular notice for public comment pursuant to Section 15 of the *EBR* once the government moves forward with environmentally significant policy proposals.

Termination of Forestry Agreements under the *Forestry Act*

EBR Registry # PB00E7003
Comment Period: none

Description

- As a result of the government's decision in 1994 to end the Agreement Forests Program (AFP), responsibility for forest management for each forest area covered by the AFP is gradually being returned by MNR to the respective landowners as the agreements expire.

ECO Comment

- Acceptable use of an information notice.
- MNR is implementing a policy decision (to end the AFP) made in 1994 prior to MNR being obliged to give notice of environmentally significant policy proposals on the Registry.

Size Limits for Muskellunge in Northwestern Ontario
EBR Registry # PB00E1007
Comment Period: 30 days

ECO Comment

- Acceptable use of an information notice.
- The federal *Fisheries Act* and its regulations are not prescribed under the *EBR* for the purpose of giving notice of proposal on the Registry.
- In 1999 MNR approved a strategy for establishing size-limits for catching muskellunge in Ontario (Registry # PB9E6006).

Management Plan for Crown Timber for the Anaconda Mine Property
EBR Registry # PB9E1011
Comment Period: none

Description

- According to the notice, the management plan prepared by Dew North Exploration and Development to harvest Crown timber on this mine site (located in northwestern Ontario, north of Terrier Lake) was endorsed following public review and issue resolution concerning adjacent land uses.

ECO Comment

- Acceptable use of an information notice.
- A license to harvest Crown trees is not prescribed under the *EBR*, and MNR is proceeding in accordance with an exemption order under the *Environmental Assessment Act*.

National Code on Introductions and Transfer of Aquatic Organisms
EBR Registry # PB00E6010
Comment Period: 30 days

Description

- The federal Department of Fisheries and Oceans (DFO) is proposing to establish a national code to govern the intentional introduction and/or transfer of live aquatic organisms into Canada, between provinces and territories, and within provinces and territories.
- The federal Department of Fisheries and Oceans has been consulting on development of the code and has asked each province to carry out consultations in its own jurisdiction.

ECO Comment

- Acceptable use of an information notice.
- The federal *Fisheries Act* gives the federal government the authority to prepare the national code .
- The *Fisheries Act* and its regulations are not prescribed under the *EBR* for the purpose of giving notice of a proposal.

Research and Monitoring Program for Double-Breasted Cormorants
EBR Registry # PB00E6009
Comment Period: none

Description

- MNR has begun a five-year research and monitoring program to examine scientifically the effects of double-crested cormorants (a type of bird) on fish and wildlife populations and sensitive vegetation.

ECO Comment

- Acceptable use of an information notice.
- Notice stated that once the ministry confirmed details of the entire program, it would invite public comment through a notice on the Registry, likely in fall of 2000.
- As of March 31, 200, this notice was not posted on the *EBR*.

Northern Boreal Initiative
EBR Registry # PB00E1008
Comment Period: 70 days

Description

- Several First Nation communities in the far north of Ontario have expressed an interest in developing new, sustainable commercial forestry opportunities north of the area where commercial forest management activities are currently authorized to occur.
- At this stage in the Northern Boreal Initiative, discussions between the Ministry of Natural Resources (MNR) and several First Nation communities have been focused on building relationships, understanding responsibilities and interests, and preparing feasibility studies.

ECO Comment

- Acceptable use of an information notice.
- In the notice MNR explained that the discussions are expected to form the basis for preparation of plans for land and resource use in certain areas of Ontario's far north and, as part of this, MNR will fulfil any obligations it may have under the *EBR*.
- In keeping with MNR's commitment, the ECO expects the ministry to post a regular notice for public comment pursuant to Section 15 of the *EBR* once the government moves forward with environmentally significant policy proposals.

Niagara Escarpment Plan Review
Draft Terms of Reference and Proposed Changes to the Niagara Escarpment Plan as Described in Six Draft Discussion Papers
EBR Registry #
PB00E6013 (October 2000)
PB01E6013 (February 2001 update to previous notice)
Comment Period: 30 days each - October 2000 and February 2001

Description

- The Niagara Escarpment Plan (NEP) is undergoing a prescribed review as outlined in the *Niagara Escarpment Planning and Development Act* (NEPDA).
- In accordance with the direction established in the approved Terms of Reference, the NEC has proposed changes to the NEP as described in six draft discussion papers. The papers cover the following issues: estate wineries, rural tourism, signage policy, environmental monitoring, intensive recreational development in Escarpment Parks and the status of land trusts. They also contain new Plan maps, Plan errata and Plan text.
- A NEP review follows a similar process as proposed amendments to the NEP with some exceptions. For example, unlike amendments, only Cabinet can make the final decision of a revised NEP. Cabinet relies on input provided by the public and stakeholders, including recommendations of the Commission, hearing officers and the Minister of Natural Resources to make its final decision.

ECO Comment

- The ECO and MNR disagree about *EBR* requirements related to posting notices related to the *NEPDA*. Since the NEP review will lead to NEP amendments, the ECO believes this should have been a regular policy proposal notice.
- In 1997, at MNR's and NEC's request, the ECO provided written guidance on posting notices related to instruments under the *NEPDA* and on posting Niagara Escarpment Plan (NEP) amendments on the Registry.
- Contrary to MNR's interpretation, the ECO advised that we considered amendments to the NEP to be policies for the purposes of the *EBR*, not instruments.
- The ECO urged MNR "to make every effort to post proposals and decisions for environmentally significant NEP amendments on the Registry in a timely fashion."
- The ECO acknowledges that NEP amendments have the characteristics of both policies and instruments, making it difficult to reach a definitive legal interpretation on this matter.
- However, *NEPDA* is prescribed under the *EBR* and the Minister of Natural Resources makes a final decision on the Plan amendment.
- MNR's information notices clearly indicate that the ministry considers NEC as the lead agency for NEP Review work.

The Wolves of Algonquin Park - A Report by the Algonquin Wolf Advisory Group
EBR Registry # PB01E6001
Comment Period: 60 days

ECO Comment

- Unacceptable use of an information notice.
- The ECO considers this to be an environmentally significant policy subject to the public notice and comment period under the *EBR*.
- For more information please refer to Supplement section S1.

Ministry of Natural Resources (MNR) - Regulations

Amendment to O. Reg. 664/98 - Fish Licensing - Border Waters of Northwestern Ontario
EBR Registry # RB9E1002
Comment Period: none

Description

- The notice advises the public of changes to:
    - O. Reg. 664/98 (revoking several subsections and revising Schedule A); and
    - the Ontario Fishery Regulations (OFR) under the federal *Fisheries Act* by setting new daily catch limits for non-residents fishing in part of OFR Division 22 and all of Division 32, and increasing the possession limit for walleye and sauger for residents and non-residents fishing the waters of Rainy Lake.

ECO Comment

- Acceptable use of an information notice.
- The federal *Fisheries Act* and its regulations are not prescribed under the *EBR* for the purpose of giving notice of proposal on the Registry.

Prohibition on Hunting in Captivity Wildlife Species not Native to Ontario (CITES) Reg. 381/00 under the *Fish and Wildlife Conservation Act* amending O.Reg. 665/98 (Hunting)
EBR Registry # RB00E6002
Comment Period: none

Description

- The Ontario government made O. Reg. 381/00 under the *Fish and Wildlife Conservation Act* to prohibit the hunting in captivity of wildlife species that are listed in Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
- Appendix I includes all species threatened with extinction which are or may be affected by trade. Appendix II includes:
    - all species which, although not necessarily currently threatened with extinction, may become so unless trade is subject to strict regulation; and
    - other species which must be subject to regulation in order that trade in certain specimens of species may be brought under effective control (i.e, species similar in appearance).

ECO Comment

- Acceptable use of an information notice.
- MNR conducted a review of whether or not this proposal was environmentally significant and determined that it was not because the proposal would prohibit the hunting of a limited number of captive species non-native to Ontario.

Management Board Secretariat (MBS) - Policies

Ontario Realty Corporation's (ORC) Marketing Plan
(ORC is an agency of MBS)
EBR Registry # PN00E0002
Comment Period: unclear (see comment below)

Description

- Ontario Realty Corporation, acting for Management Board Secretariat, posted on the ORC Web site a list of properties for sale to inform the people of Ontario of the sales activities.

ECO Comment

- In theory, acceptable use of an information notice, but information quality requires improvement.
- Notice does not address the need identified by the ECO to provide the public with information on the government's plans to sell lands.
- The notice contains an electronic link to ORC's Web site, but that site merely provides information about which properties are currently for sale, and the ECO's monitoring of the site has revealed that this information is often out of date.
- The public is not being provided with the opportunity to see the government's annual plan or policy.
- The ECO urges MBS to make the actual marketing plan summary available as soon as possible for the coming year.
- Regarding the public comment period, the notice states: "Public information and consultation will continue on each property sale until the transaction is completed and title has been conveyed. The end date for public consultation on this posting has not been set."
- MBS told the ECO in July 2001 that: "MBS and ORC wish to examine options for appropriate and practical disclosure of ORC's marketing plan to the public for consultation purposes, and discuss these options with the ECO."

Government Business Plans
EBR Registry # PN00E0003
Comment Period: 79 days

Description

- The notice indicates that Ontario government ministries have released their 2000-2001 business plans that outline the ministries' core businesses, the government's goals for the 2000-2001 fiscal year, and strategies to meet those goals.
- The business planning process is an ongoing one, and although posted plans are final, public comments are considered by ministries as part of the annual business plan revision process.

ECO Comment

- Acceptable use of an information notice.
- Government Business Plans are not required to be posted as proposals on the Environmental Registry for comment.
- The posted business plans are final but comments are sought for consideration in next year's planning process.
- For more information please refer to page 18 of the annual report.

Real Property and Accommodation Directive
EBR Registry # PN00E0004
Comment Period: none

Description

- The Management Board of Cabinet Directive on *Real Property and Accommodation* provides an administrative framework which supports the Ontario Government in its efforts to acquire, manage and dispose of real property and accommodation.
- The Directive applies to all ministries and some agencies unless exempted by Management Board of Cabinet.

ECO Comment

- The ECO continues to disagree with MBS regarding the use of an information notice.
- In 1998 MBS revised its *Directive on Real Property and Accommodation* and indicated its intention to post the Directive on the Registry as an information notice in the future.
- In 1998 the ECO reported that: "according to MBS's own *EBR* Procedures Manual, this revision should have been considered non-administrative and environmentally significant and should have been posted on the Registry for public notification and comment."
- MBS told the ECO in July 2001 that: "... the ministry had committed to the Environmental Commissioner (March 1999) to post the *Real Property and Accommodation Directive* on the Environmental Registry and has done so."

Management Board Secretariat (MBS) - Regulation

Class Environmental Assessment (EA) Process for Realty Activities
EBR Registry # RN00E0005
Comment Period: 23 days

Description

- MBS posted this notice to comply with the conditions of approval of the Management Board Secretariat Class Environmental Assessment Process for Realty Activities which require that Ontario Realty Corporation seek public comment with respect to its draft proposed Class Environmental Assessment (EA).
- Types of projects covered by the Class EA include: land with no government program use; administrative, storage, custodial, transportation, research, utility, and waste facilities; infrastructure development; heritage properties; and contaminated properties. Activities associated with these properties include acquisition, planning, design, leasing, letting, maintenance, repair, addition, sale, construction, demolition, and marketing.

ECO Comment

- Acceptable use of an information notice.
- However, the ECO has developed and communicated guidance that prescribed ministries are obligated, under Section 15 of the *EBR*, to post proposal notices for public comment on the Registry for all EA Terms of Reference where the ministry is the proponent.
- The ECO will monitor whether ministries (including MBS) follow this guidance and will report on this in future years.

Ministry of Northern Development and Mines (MNDM) - Policy

Rehabilitation of the Kam Kotia Mine Site
Timmins, Ontario
EBR Registry # PD00E1005
Comment Period: none

ECO Comment
- Acceptable use of an information notice.
- Given the severity of the environmental impacts and the level of public concern in this region, the ECO urges MNDM to continue this valuable service by updating the notice at each major step of the project.
- For more information please refer to pages 89-90 of the annual report.

Ministry of Northern Development and Mines (MNDM) - Regulation

Classification of Proposed Instruments to the *Mining Act* - Amendment to Ontario Regulation 681/94
EBR Registry # RD00E1009
Comment Period: none

Description
- These amendments were required because of proclaimed revisions to the *Mining Act*.
- The proposed instruments were originally posted on the Environmental Registry in May 1997 for a 90-day review period.

ECO Comment
- Acceptable use of an information notice.
- The proposed instruments were posted on the Registry in 1997 for a 90-day comment period.
- Notice provides follows up, informing the public that the instruments are being put forward with the revisions to the *Mining Act* under Schedule "O," Bill 26.
- As of March 31, 2001, Ontario Regulation 681/94 had yet to be amended. This is an unacceptable delay in updating MNDM's list of prescribed instruments.
- More detail in the notice would have provided clarity for the reader.

Ministry of Municipal Affairs and Housing (MMAH) - Policies

Draft Septics Re-inspection Program Guide
EBR Registry # PF00E1000
Comment Period: 30 days

Description
- This Guide is one element of MMAH's efforts to educate the public in order to minimize impacts of failing septic systems.

ECO Comment
- Acceptable use of an information notice.

Consultation for Proposed Objectives for the Ontario Building Code
EBR Registry # PF00E1001
Comment Period: 30 days

ECO Comment

- Unacceptable use of an information notice.
- The ECO considers this to be an environmentally significant policy subject to the public notice and comment provisions of the *EBR*.
- For more information please refer to page 38 of the annual report and Supplement section S1.

Ministry of Municipal Affairs and Housing (MMAH) - Regulations

Minister's Zoning Orders
EBR Registry #
RF00E3001
RF00E3002
RF00E3003
RF00E1001
RF00E3004
RF00E0001
RF00E0002
RF00E0003
RF00E0004
RF00E0005
RF01E0001
RF01E0002
Comment Period: none

Description

- Minister's Zoning Orders are regulations that allow the minister to control land use in areas without municipal organization or in areas where the provincial government has an interest.

ECO Comment

- Acceptable use of an information notice.
- Minister's Zoning Orders are not prescribed under the *EBR*.

Ministry of Municipal Affairs and Housing (MMAH) - Instruments

Official Plan
City of Windsor
EBR Registry # IF00E1013
Comment Period: none

ECO Comment

- The ECO worked with MMAH to have this information notice posted because a decision notice was never posted due to a clerical error by MMAH.

Proposals for Provisional Consents (no Official Plan in Place)
EBR Registry #
IF01E0007 Four Provisional Consents
IF01E0020 Two Provisional Consents
Comment Period: none

Description

- Notices helped to inform the public of separate consent applications posted as regular notices on the Registry.

ECO Comment

- Acceptable use of an information notice.
- Timing of these notices was concurrent with decision notices being posted on the Registry for each consent.
- Posting the information notices during the proposal stage would have brought this matter to the public's attention and may have encouraged comments.
- However, if residents used the electronic link to access any or all of the specific consent notices, they would have been made aware of their right to appeal the decisions.

S3. -

ECO REVIEW:
MINISTRIES' USE OF EXCEPTION NOTICES

S3
ECO REVIEW: MINISTRIES' USE OF EXCEPTION NOTICES

Emergency Exceptions Under Section 29(1) of the EBR

MOE - Regulation
Drinking Water Protection
EBR Registry # RA00E0014 (1st posted in May 2000 and updated in August 2000)

Description

- first notice informed the public that MOE was developing a regulation for drinking water protection including mandatory requirements related to accreditation of drinking water testing laboratories; approval of water treatment facilities; and, notification requirements in the event of a change of use of laboratories and laboratories' discovery of unsafe drinking water
- updated notice referred the reader to the related Registry proposal/decision notice RA00E0020 that notified the public that the Regulation would go into force on August 26, 2000; outlined the effect of public comments received on *EBR* Registry # RA00E0014; provided an electronic link to the Regulation; and, accepted further public input on the matter until September 9, 2000

ECO Comment

- acceptable use of emergency exception in light of the Walkerton tragedy and the need to take action on drinking water protection issues
- both notices should have provided a better explanation of why the MOE was using an emergency exception
- see pages 110-112 of the annual report for the ECO's analysis of the Drinking Water Protection Regulation

Regarding the first notice:

- MOE approached the ECO asking for guidance about use of the emergency exception in this case
- given the environmental significance and public interest in this matter, the ECO suggested that the ministry provide as much time for public comment as possible
- MOE accepted comments for one week and allowed comments to be submitted by e-mail

Regarding the updated notice:

- MOE approached the ECO for guidance regarding the posting of a Registry notice that would update the public on the results of its earlier consultation on the Drinking Water Regulation (through the earlier exception notice RA00E0014) and would invite comment for 30 days on any potential future changes
- ECO suggested the ministry use a proposal notice and a decision notice
- while not standard practice advocated by the ECO, the ministry acted upon this advice by creating RA00E0020 as both a proposal and decision notice, and linking it to the emergency exception notice

MOE Instrument
Order for Preventative Measures
Section 18 *Environmental Protection Act* (*EPA*) and Section 32 *Ontario Water Resources Act* (*OWRA*)
Shouldice Cement, Village of Shallow Lake
EBR Registry #IA00E1191

Description

- notice related to orders that would direct the company to analyze hydrocarbon contamination near the Village of Shallow Lake and provide a Remedial Action Plan to MOE that would ensure the protection of the municipal water supply and private water wells

ECO Comment

- acceptable use of emergency exception
- while clearly written, notice should have indicated when the order was issued and the name of a ministry contact person

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MOE Instrument
Orders for Remedial Work and Preventative Measures
Sections 17 and 18 *EPA*
A.R. Clarke Limited, Toronto
EBR Registry #IA01E0214

Description

- order issued on an urgent basis to ensure that proceeds of the company's sale, prior to a ruling on bankruptcy proceedings, could be directed towards environmental remediation

ECO Comment

- acceptable use of an emergency exception
- after learning about this order in January 2001, ECO staff contacted MOE regarding the need to post this notice on the Registry
- MOE should have posted this notice of its own accord and should have included the name of a ministry contact person
- See Ministry Comments

MOE Instrument
Air Discharge Approval
Section 9 *EPA*
Canadian Waste Services Landfill Site, Sarnia
EBR Registry # IA00E0969
Related to *EBR* Registry # IA00E0967

Description

- relates to the installation of 52 injection wells, a header pipe, and an air blower to control landfill gas that had migrated off site and was reaching explosive conditions

ECO Comment

- acceptable use of emergency exception
- notice would have benefitted from including information about when the approval was granted and the name of a ministry contact person

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MOE Instrument
Waste Disposal Site Approval
Section 27 *EPA*
Canadian Waste Services Landfill Site, Sarnia
EBR Registry # IA00E0967
Related to *EBR* Registry # IA00E0969

Description

- installation and operation of a temporary landfill gas control system to address the migration of landfill gas that had migrated off site and was reaching explosive conditions

ECO Comment

- acceptable use of emergency exception
- notice would have benefitted from more detail including a statement of when the approval was granted and the name of a ministry contact person

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MOE Instruments
Waste Disposal Site Approvals
Section 27 *EPA*
EBR Registry #:

- IA00E0585
- IA00E0586
- IA00E0587
- IA00E0588
- IA00E0589
- IA00E0590

Description

- notices described the need to temporarily expand operations at various waste processing facilities in the Greater Toronto Area to address the City of Toronto's need for additional waste processing capacity during a labour dispute

ECO Comment

- acceptable use of emergency exception
- notices should have stated when the approvals were granted and provided the name of a ministry contact person
- the small amount of information provided in the notices would not, in most cases, have allowed the public to understand the potential impacts of the expansions

Equivalent Public Participation Exceptions Under Section 30(1) of the EBR

MNR - Regulations
Establishing/Modifying Parks, Conservation Reserves, Nature Reserves Under Ontario's Living Legacy Land Use Strategy

Description

- RB9E6011 - Establishing 51 Conservation Reserves (notice posted in April 2000 and updated in August 2000)
- RB9E6012 - Establishing 8 Provincial Parks and Making Additions to 5 Existing Provincial Parks (notice posted in April 2000 and updated in August 2000)
- RB00E1001 - Establishing 26 Conservation Reserves and Making an Addition to 1 Existing Conservation Reserve
- RB00E1002 - Establishing 4 Provincial Parks and Making Additions to 4 Existing Provincial Parks
- RB00E2001- Establishing 76 Conservation Reserves
- RB00E2002 - Establishing 17 Provincial Parks; Making Additions to 13 Existing Provincial Parks; Re-Configuring an Existing Provincial Park
- RB00E3001 - Establishing 7 Conservation Reserves
- RB00E3002 - Establishing 5 Provincial Parks and Making Additions to 2 Existing Provincial Parks
- RB00E3003 - Establishing 16 Conservation Reserves
- RB00E3004 - Establishing 1 Nature Reserve Park Addition

ECO Comment

- It is the ECO's position that MNR may only use this exception if the park or conservation reserve boundary is not substantially different from that proposed during the Ontario Living Legacy consultation process
- As noted on pages 41-42 of the annual report, the ECO is concerned about MNR's handling of this issue and is following up with the ministry

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MOE - Instrument
Order for Preventative Measures
Section 18 *Environmental Protection Act*
Norampac Inc., Trenton
EBR Registry #: IA00E1818

Description

- MOE required the Company to place an order for major equipment relating to "alternative management technology"
- according to MOE, the environmentally significant aspects of this instrument were dealt with through a related *EBR* Registry Notice # IA9E0365 (addressing the concept of proceeding with an alternative management technology to eliminate the use of Dombind as a dust suppressant and the specific steps to implement that technology)

ECO Comment

- this notice raises the issue of whether or not it is appropriate to use the *EBR*'s equivalent public participation exception for orders, as there may be an implication for appeal rights provided by the *EBR*
- ECO plans to review the issue in the coming year

S4. -

REVIEWS OF SELECTED DECISIONS ON POLICIES, ACTS, REGULATIONS AND INSTRUMENTS

1. Ministry of the Environment Decisions

Review of Posted Decision:
Alpine Plant Foods Corporation: approval for discharge into the natural environment other than water (i.e. air)

Decision Information:

Registry Number: IA8E0260	Comment Period: 30 days
Proposal Posted: February 27, 1998	Number of Comments: 3 (all received after the Comment period had expired)
Decision Posted: May 24, 2000	Approval Implemented: October 9, 1998

Description:
In February 1998, the Ministry of the Environment (MOE) proposed to issue a certificate of approval to Alpine Plant Foods Corporation under Section 9 of the *EPA* for discharge into the natural environment other than water (i.e., air). Alpine Plant Foods Corporation, a liquid fertilizer manufacturing company, operates in the Township of Wilmot, in the Regional Municipality of Waterloo. The purpose of the original proposal was to allow Alpine to build a new plant building, which will accommodate various types of industrial equipment required in the daily processes of the company. This equipment includes an ammonium polyphosphate reactor, an ammonium hydroxide reactor, a batch mixer and scrubber systems. The production process for the fertilizer, which uses anhydrous ammonia and super phosphoric acid, results in the discharge of ammonia to the atmosphere from the plant's cooling tower.

The old Alpine plant was adjacent to many houses in Wilmot Township, which caused concern among many local residents. The new plant building, as approved by MOE, will be located much further from residential areas, and this should reduce the overall impact of the plant's emissions. Despite this relocation, many citizens in Wilmot Township informed MOE that they objected to the issuance of the certificate of approval due to the lack of community support for any such facility in the local vicinity. Members of the community have continuing concerns regarding the environmental and health risks associated with the release of ammonia into the atmosphere through escaping fumes. They also expressed concern about the potential for spills from the new plant.

Implications of the Decision:
Although MOE does not discuss the implications of this decision in the Registry notice, this approval for air discharge has potential environmental and health implications. Research on the effects of the release of ammonia into the atmosphere shows that it may cause soil, air, and water contamination with subsequent effects on the surrounding flora and fauna. In addition, ammonia discharges may affect the health of the nearby residents. Research shows that health impacts from such exposure are known to include eye, nose, and throat irritation. These potential impacts caused concern among many of the residents living nearby the plant. However, ECO staff carefully reviewed this approval and we were unable to identify significant concerns with the

discharges approved by this CofA.

Public Participation & *EBR* Process:
MOE provided a 30-day comment period for this proposal, meeting the minimum requirements set out in the *EBR*. Considering the relatively small size and scope of the proposed project, this comment period seems adequate. However, some residents living near the proposed plant in the township of Wilmot voiced concerns that insufficient time was provided in which to make informed comments.

No comments were received by MOE during the official comment period. However, numerous comments, raising a number of issues were received by MOE approximately six weeks after the official comment period ended. MOE stated in its decision notice that staff considered these comments in making its decision on this approval. The commenters raised the following issues:

- concern regarding the accidental release of anhydrous ammonia from the plant
- concern regarding the safety of the chemicals and processes used at the plant
- concern that the public was insufficiently informed about the details of the proposal
- a request for a reclassification of the instrument proposal from Class I to Class II, which could provide enhanced public participation opportunities such as mediation or a public meeting
- a request to extend the *EBR* comment period
- a request for the corporation of Wilmot Township to hire a professional consulting engineer to review the proposal

Although the release of ammonia into the atmosphere was mentioned in the Registry proposal notice, the proposal failed to describe the specific environmental impacts of these discharges. The proposal also used highly technical language, without an explanation of terms. These factors are problematic, as the public cannot make useful comments if they are not informed of or do not understand the impacts of a proposal.

In response to comments regarding concerns over the safety of the operation, MOE added a condition to the certificate of approval that Alpine "document its emergency response program and submit it to local authorities as well as prepare and implement a compliance response program."

Despite receiving comments that expressed the need for augmented local resident involvement opportunities as provided under Sections 24 and 28 of the *EBR*, MOE did not provide any enhanced public participation.

Since the instrument came into effect on October 9, 1998, MOE should have posted the decision notice much earlier than May 24, 2000. This delay in posting fails to meet the requirement in Section 36 of the *EBR* that ministries post decision notices on the Registry "as soon as reasonably possible" after a proposal is implemented. The posting delay also may have frustrated the public's right to seek leave to appeal, as members of the public rely on the Registry to inform them when a decision they may wish to appeal has been made.

SEV:

Once a ministry identifies a proposal for an environmentally significant decision, it must consider its Statement of Environmental Values (SEV). As reported in the ECO's 1994/95 annual report, MOE takes the position that ministry staff are not required to consider the SEV when they make decisions on instruments. Thus, ministry staff would not have considered MOE's SEV in making this decision. As pointed out in the ECO's 1994/95 annual report, the ECO strongly disagrees with MOE's interpretation as to how the SEV requirements apply to instruments. The ECO takes the position that all environmentally significant decisions of the ministries are subject to the SEV consideration in Section 11 of the *EBR*.

ECO Comment:

As discussed above, the unreasonable delay in posting the decision on the Registry is of great concern and should be addressed by MOE. The use of highly technical language in the proposal and decision postings, in addition to the lack of a contact name, may have lowered the accessibility of the postings for some members of the public. The omission of contact names from the proposal notice is a recurring problem at MOE and should be addressed. Moreover, the environmental impacts from the release of ammonia into the atmosphere should have been discussed in the Registry notice. MOE also missed an opportunity to provide enhanced public participation opportunities with respect to this controversial proposal.

MOE did consider comments received after the end of the official public comment period. The consideration of issues raised by these commenters was useful and enhanced the overall quality of the decision.

Review of Posted Decision: Ministry of Natural Resources, Declaration Order under the *Environmental Assessment Act* for the construction, operation, and maintenance of projects at existing fish culture stations

Decision Information:

Registry Number:	RA00E0017	Comment Period:	30 days
Proposal Posted:	July 20, 2000	Number of Comments:	1
Decision Posted:	December 6, 2000	Regulation Filed:	October 18, 2000

Description:

In this decision the Ministry of the Environment, with the concurrence of Cabinet, approved a Declaration Order (O.C. 1998/2000 / MNR 54-1) declaring that "the construction, operation and maintenance of projects at existing fish culture stations" throughout Ontario are not subject to the Ontario *Environmental Assessment Act*" (*EAA*). An "environmental assessment" (EA) is a report or analysis relating to a specific project or development that includes a description of the expected environmental impacts of the project, actions that could prevent or mitigate these environmental impacts, and alternative methods to carrying out the project. Specifically, with this order MOE is granting a request by the Ministry of Natural Resources to allow it to carry on with and complete many projects under its Fish Culture Program without first taking them through the process required for an EA, subject to some conditions. Without this Declaration Order, these projects under MNR's Fish Culture Program would require either individual EAs to be developed or the projects could not be initiated until a new Class EA was approved under the *EAA*. Some of these include projects to:

- extend or upgrade existing MNR fish culture facilities;
- complete operational and maintenance activities associated with new construction, such as extensions to existing buildings, and construction of aeration towers, broodstock facilities, offices, and effluent treatment facilities;
- increase fish production for the provincial stocking program;
- provide visitor services for public education and tourism opportunities; and
- improve effluent treatment to enhance protection of water quality.

MOE passed the Declaration Order exempting *EAA* coverage for these ongoing operational activities by relying on Section 4 of Regulation 334, the General regulation under the *EAA*. The order replaces and fills the gap in coverage provided by MNR-54 -- the previous Declaration Order granted by MOE for the same purpose, which expired December 31, 1999, and could not be retroactively extended. The new Declaration Order expires on July 31, 2005.

Implications of the Decision:

In its request for the order, MNR stated that if these activities were subject to the *EAA*, the public would be damaged by the loss of anticipated benefits associated with an enhanced provincial fishery, and the Crown would be damaged by the undue expense required to prepare EAs for undertakings that are not expected to have significant adverse effects on the environment. According to MOE, it is in the public interest to declare that the undertakings are not subject to the *EAA* for the following reasons:

- the projects will occur only in conjunction with existing facilities that were in operation prior to the passage of the *EAA* or were previously exempted;
- the procedures described in the "Construction and Mitigation Handbook for MNR Class EA Projects" and the "Environmental Guidelines for Access Roads and Water Crossings" will be followed;
- the water intake and effluent discharges from fish culture stations will be controlled by MOE through the permit to take water and certificate of approval process;
- the surveys undertaken by MNR show strong support for additional fish culture development across the province; and
- notice of the proposal to issue this order was placed on the Environmental Registry and the comments received were considered.

However, the ECO believes that since an environmental assessment (EA) is designed to address the environmental, economic, and social impacts of a project, bypassing the EA process creates a lost opportunity to identify those impacts. While upgrading and maintenance of the facilities may not be very significant projects and may have very little impact, the Declaration Order also permits MNR to expand buildings and facilities, and change operations at all existing stations. These changes could impact the environment in ways that may differ between stations and that will not be identified without an EA. In addition, the EA process would not necessarily deprive the public of an enhanced provincial fishery; the process is actually intended to enhance the fisheries of the province by taking into consideration the environmental, social and economic aspects of the projects individually and combined.

Public Participation & *EBR* Process:

MOE allowed the public 30 days to comment on the proposed regulation before they made their decision, as required by the *EBR*. MOE provided an office address where the Declaration Order was available for viewing and a contact name in the proposal notice. However, the decision notice indicated that comments were directed to a different person. While this confusion did occur after comment would have already been received by the public, the ECO believes that it does raise questions regarding the handling of public comments. This error could have easily been avoided.

One comment was received on this proposal. The commenter did agree with the EA exemption for the modification or extension of existing offices or educational/visitor/tourism facilities. However, the commenter cited two reasons for opposing the exemption for upgrading fish culture facilities to increase fish production for the provincial stocking program. First, the commenter argued that increasing the capacity of fish culture facilities could increase associated negative environmental impacts such as the introduction of disease into native fish populations and nutrient enrichment of surrounding or downstream waters with fish culture wastes. Second, the commenter is opposed to the non-native fish stocking program in the Great Lakes and argued that an EA is necessary before approval of any increase in fish rearing for the program. MOE stated that these concerns raised by the commenter did not impact their decision, since the stocking of non-native fish species is not the subject of the order, and effluent treatment would continue to be dealt with in a CofA under the *Ontario Water Resources Act.*

It is the ECO's opinion that the commenter did raise valid concerns that could be considered and addressed through an EA. MOE is correct in stating that the policy of stocking the Great Lakes with fish is not the specific subject of the order. However, an increase in fish production for the provincial stocking program is one of the outcomes of proceeding with an expansion of the capacity of fish culture facilities and should have at least been considered by MOE.

SEV:

According to MOE, this decision supports the main objectives of MOE's Statement of Environmental Values: environmental protection, the ecosystem approach, and resource conservation. In considering its SEV, MOE concluded that the Declaration Order would maintain environmental protection efforts since MNR would follow the environmental and mitigation procedures outlined in two guidelines already in use by MNR. The first is the "Construction and Mitigation Handbook for MNR Class EA Projects." This is a supplement to the Field Environmental planning procedure that was developed for Small Scale MNR projects, and may also be applied to projects undertaken in provincial parks and conservation reserves. It identifies the potential negative impacts associated with small-scale projects and presents alternative methods for presenting and investigating them. The second is the "Environmental Guidelines for Access Roads and Water Crossings." This is a 1998 operation and construction manual that guides MNR staff and anyone building on Crown lands regarding the construction, maintenance and abandonment of access roads and water crossings, and provides mitigation techniques. It is currently under revision by MNR.

With regard to the ecosystem approach, MOE stated that it could mitigate the effects from water intake and effluent discharge from fish culture stations through the permit provisions of the *Ontario Water Resources Act.* Finally, with regard to resource conservation, MOE stated that the Declaration Order would allow MNR to continue its activities for upgrading fish culture facilities in order to increase fish protection for the provincial fish stocking program and to improve effluent treatment to enhance protection of water quality.

Other Information:

MNR has posted potential policies and procedures on aquaculture to implement the *Fish and Wildlife Conservation Act.* Eight of the 10 that were proposed were environmentally significant and the subject of EBR Registry PB00E6001, which was posted as a proposal on February 4, 2000. No decision has yet been posted. Some of the policies deal with the same issues that are normally raised in an environmental assessment.

- Policy #2 deals with aquaculture licensing, renewal, transfer, amendments, refusals and cancellation. In order to obtain or renew a licence, applicants must submit detailed information on the site, location and facilities. Licensing requirements are dealt with in O. Reg. 664/98, which came into effect on January 1, 1999. It identifies some standard licence conditions in the regulation rather than having to identify them on each individual licence.
- Policy #4 deals with risk analysis and facility security. As a condition of approval of licenses, applicants must submit a Short Form Risk Analysis regarding the escape of cultured fish that might harm the environment, as well as a Detailed Ecological Risk Analysis. Three categories of facilities are also suggested, based on the level of risk of escape.
- Policy #5 deals with the issuance of a separate license to stock fish in Ontario waters. A decision to issue a license is based on MNR existing fish stocking policies and guidelines (Directives F1 2.02.01 - 1982). If stocking is proposed for a species not present in the water body in question, the requirements of the class Environmental Assessment for Small Scale MNR Projects must be fulfilled by the applicant.
- Other policies deal with aquaculture on private land, artificial waters, licensing to collect fish from Ontario waters, and the administration of federal Fish Health Protection Regulations.

ECO Comment:

Culturing fish for release into the natural environment raises concerns about habitat integrity, aquatic and wildlife health, biodiversity, and ecosystem stability. The EA process is designed to consider these types of impacts. Exempting the expansion and modification of fish culture stations from the EA process may eliminate an opportunity for MNR to address important issues prior to construction – particularly the cumulative effects from a number of smaller expansions.

While the ECO understands and agrees that some projects and activities that are exempted under the Declaration Order may have negligible environmental impacts, the exemption may be too broad and encompass projects that would benefit from an EA. The EA process is intended to ensure the long-term health of ecosystems by protecting their components and their biological foundations through the sustainable development of resources. Since the projects that are subject to Declaration Orders are exempted from the notice and comment opportunities under the *EBR*, these projects will not be subject to appropriate public scrutiny. This deficiency makes it essential that these projects receive the type of scrutiny found in an EA process.

Review of Posted Decision: Ontario Regulation 459/00 - Drinking Water Protection

Decision Information:

Registry Number:	RA00E0020	Comment Period:	7 days
Proposal Posted:	August 9, 2000	Number of Comments:	28
Decision Posted:	August 9, 2000	Regulation Filed:	August 8, 2000

Description:
In August 2000, the Ministry of the Environment (MOE) passed O.Reg. 459/00, "Drinking Water Protection Regulation" under the *Ontario Water Resources Act* (*OWRA*) ,aimed at ensuring safe drinking water for all citizens of Ontario. It is part of "Operation Clean Water" – a collection of provincial initiatives aimed at improving water quality and protecting public safety. The catalyst for these initiatives was the Walkerton tragedy, where the town's drinking water became contaminated by *Escherichia coli* 0157:H7 (*E. coli*) in the spring of 2000, leading to widespread illness and the death of seven Walkerton inhabitants. *E. coli* is a fecal coliform which indicates contamination by sewage or animal manure and the 0157:H7 strain is particularly toxic.

O. Reg. 459/00 applies to water treatment and distribution systems that now require approval under the *OWRA* and:

- supply more than 50,000 litres of water on at least 88 days in a 90-day period;
- have the capacity to supply water at a rate greater than 250,000 litres of water or more per day; or
- supply water to six or more private residences.

It does not apply to facilities that obtain all of their water from another facility unless they are owned by, operated by, or provide water to a municipality or to the Ontario Clean Water Agency, or unless they rechlorinate or treat the water.

The regulation sets out a number of requirements aimed at the protection and monitoring of water quality. It defines a "Minimum Level of Treatment" required for all water, depending on the source, and stipulates that as of December 31, 2002, the owner of a water treatment or distribution system must ensure that:

- groundwater is treated by disinfection (some specific exceptions can be made by MOE);
- surface water is treated by chemically assisted filtration and disinfection; and
- all water is treated with chlorination.

However, the regulation also provides that the water can be treated with alternate methods, provided that, in the Director's opinion, it provides water of equal or better quality. There are also exceptions that can be made for this requirement if a waterworks meets certain rigorous conditions.

"Sampling and Analysis Requirements" in the regulation outline the testing parameters and the frequency of required testing by the water treatment and distribution systems. There are different testing and analysis requirements for different water sources. The schedules to the regulation set out maximum allowable concentrations for named substances that the water may contain. They also set standards for microbiological, turbidity, chlorine residual, fluoride, volatile organics, inorganics, sodium, nitrates/nitrites, pesticides, and PCB concentrations. In addition, the regulation also sets operational parameters, chemical/physical standards, radiological standards, and indicators of adverse quality with corrective action for them.

The regulation requires that the testing be carried out by a laboratory that is accredited for each parameter listed. A laboratory can obtain accreditation from the Standards Council of Canada or a body that is equivalent in the opinion of the MOE Director. However, an accredited laboratory is not required to carry out the testing if it is:

- carried out by continuous monitoring equipment that forms part of the facility;
- for a non-health related parameter and is carried out according to an approval, order or direction;
- for an operational parameter and is carried out by a specifically licensed or experienced and skilled person; or
- for a health-related parameter but is carried out by a MOE laboratory or by a laboratory that the Director believes is proficient.

The owner of the facility must give written notice to the Director of the identity of the laboratory each time a new laboratory is first being used for testing. The regulation also places a number of reporting obligations on the owners of water treatment facilities. Owners must submit quarterly reports to MOE within 30 days of the end of each quarter which outline the water system, water treatment and distribution, the measures taken to comply with the requirements, and the analytical results obtained for the samples taken. Finally, owners may be responsible for submitting engineers' reports to MOE every three years in accordance with the MOE publication "Terms of Reference for Engineers' Reports for Water Works." An engineer's report is required if a municipality or the Ontario Clean Water Agency owns or operates the system or obtains their water from the system, or if so required by an approval, order or direction.

The owner of the facility and the laboratory are both obliged to give notice when they find that one of their water samples exceeds "Chemical/Physical or Radiological Standards," a health-related parameter in the applicable approval, order or direction; or an "Indicator of Adverse Water Quality" such as *E. coli*. Notice must be given immediately to MOE's Spills Action Centre and the local Medical Officer of Health in person or by phone. The owner of the facility must then analyze another sample, apply the corrective action specified in the regulation if it is an indicator of adverse water quality, and always post a warning notice in a prominent location where it is likely to come to the attention of users of that water. If the owner fails to post this notice, a provincial officer or a public health inspector under the *Health Protection and Promotion Act* may post the warning.

The owner of the water facility must make laboratory reports, testing results, approvals and orders, quarterly reports, O. Reg. 459/00 and the Ontario Drinking Water Standards available to the public at no charge. These documents must be available during normal business hours at the office of the owner or at another location where the office is not a reasonably convenient location for water users, and at the office of a municipality being served by the facility. For those water treatment or distribution systems that serve more than 10,000 people, the owner must also make the quarterly reports available through a website on the internet.

Implications of the Decision:
O. Reg. 459/00 fills a gap partially created in 1996 when the province shut down the subsidized water testing services provided by MOE and MOH. The ECO commented on this cutback at that time in the 1996 annual report. That transfer forced municipalities to pay more money for water quality testing at private labs, and the MOE did not take any steps to ensure that the testing was done at accredited labs. Under the pre-1996 system, public laboratories would provide notice to MOE management and local health units when concentrations were exceeded or adverse water samples were identified. Larger municipalities ran their own water testing but many medium and smaller municipalities depended on MOE and MOH. However, many smaller municipalities did develop express contracts specifying how notice was to be provided by the laboratories in the event of an adverse water sample.

MOE was also presented with a previous opportunity to fill this gap but turned down the idea. In the late 1990s, a committee of water quality specialists and other MOE staff proposed a series of revisions to the Ontario Drinking Water Objectives. They formed the Drinking Water Co-ordinating Committee out of concern over the quality of Ontario's drinking water after determining that at least 36 municipalities were failing to meet sampling and monitoring requirements. The committee proposed changes to the minimum sampling requirements, and recommended that the Ontario Drinking Water Objectives should be given the force of law or be included in every municipal water treatment plant's C of A. In 1999, MOE rejected these recommendations, stating that they would confuse local officials.

Prior to O. Reg. 459/00, drinking water quality in Ontario was governed by a regime of procedural guidelines under the Ontario Drinking Water Objectives, which were largely based on the Canadian Drinking Water Quality Guidelines and did not have the force of law. O. Reg. 459/00 brings a needed change to this regime, and it creates the first mandatory parameters and procedures for drinking water treatment and testing in Ontario. As a result, it could have a significant effect on environmental protection. It provides the people of Ontario with the right to a minimum level of treatment of drinking water, requires constant monitoring of water quality and the water treatment and distributions systems, requires testing to be done at accredited laboratories, and creates a mandatory procedure for reporting poor drinking water quality to MOE and the public on a timely basis. Schedules to the regulation specify the parameters for the testing and create the first mandatory standards in Ontario expressed in maximum allowable concentrations of named substances in drinking water in an effort to protect human health.

The issues raised by this regulation have social, economic and environmental implications for the water treatment industry, municipalities and the people of Ontario. It aims for consistent water quality throughout the province and provides a standard procedure for owners of waterworks and laboratories to follow where there's a concern regarding the safety of the water. This ensures that MOE and the public are informed of the possible danger as soon as possible. However, some critics are skeptical about the effectiveness of the regulation and believe MOE should undertake a more comprehensive reconstruction of drinking water legislation in Ontario. They cite concerns that:

- The regulation does not create a clear statutory right to clean and safe drinking water.
- It doesn't address the causes of drinking water contamination.
- It does not create citizen enforcement mechanisms to ensure compliance with the regulation or a statutory cause of action to sue violators of the regulation.

Public Participation & *EBR* Process:
MOE originally posted an exception notice regarding a proposed regulation with respect to drinking water under Registry number RA00E0014 on May 31, 2000. Comments were allowed for seven days and in that time, 28 comments were received from the public. None of the 28 comments were summarized in the decision notice of this highly publicized issue following the Walkerton water contamination tragedy. MOE cited "the urgency to implement this regulation" as the rationale for the abridged public comment period. Some of the public comments criticized MOE for providing an abridged comment period since the need for safe drinking water is not a new concern for the province. However, the ECO recognizes the urgent situation that the recent events in Walkerton created and the need for MOE to respond as soon as possible to prevent similar occurrences in other areas of the province.

The notice stated that the regulation would include the following four mandatory requirements:

(1) All laboratories or water treatment plant testing facilities which perform tests on drinking water must be accredited. This accreditation will include certification for all tests performed in fulfilling the requirements of the Ontario Drinking Water Objectives.

(2) Municipalities must inform MOE if they change the private laboratory facility which is testing their water. This requirement will allow MOE to ensure that the new laboratory is fully aware of its role and obligations.

(3) All water treatment facilities must have their Certificates of Approval reviewed at least once every three years.

(4) If any laboratory finds that a test result indicates unsafe drinking water quality, it must immediately inform MOE and the Medical Officer of Health, as well as the municipal water facility operator. This requirement will remove any possible misunderstanding about notification procedures and reporting obligations.

The notice indicated that the "Director"at MOE could be contacted for information and gave a phone number, fax number and email address. While it also included an Internet link, the link only provided the Notes for Remarks from the Environment Minister and Deputy Environment Minister for a press conference held on May 29, 2000.

Since the only information that the public received were the four requirements above and some notes on those four requirements, many of the public comments offered suggestions on how those requirements could be refined and implemented. Comments were received from industry stakeholders, interest groups and municipalities, and most were generally supportive of the regulation and the intention of MOE. However, some commented that the proposed regulation did not go far enough, and that there was a need for more extensive legislative and policy reform in relation to Ontario's water resources. Others suggested methods of informing the public of the unsafe drinking water quality reports and indicated that it would be overly costly to implement the proposed changes at smaller water systems. Many questioned how the ideas outlined were to be accomplished since very little information was given, requesting further clarification and making suggestions for the details for the regulation.

On August 8, 2000, MOE posted its decision notice for the new regulation (RA00E0020). MOE stated that the relevant comments received on the original notice were considered, and that "based on these comments, changes have been made to this regulation." The decision notice was much more detailed and informative than the proposal notice. It gave details regarding: the application of O. Reg. 459/00; sampling and treatment processes; laboratory accreditation; public warning notices; water quality parameters; monitoring of facilities; and other specific parts of the regulation. The decision notice also added two new purposes for the regulation that were not contained in the original notice, including the mandatory treatment and testing of water and mandatory corrective action following unsatisfactory tests.

MOE also indicated that it was still interested in receiving comments for consideration for a further 30 days, until September 9, 2000, despite the fact that the regulation was already in force. There is an Internet link to the final version of the regulation in the notice.

SEV:

MOE briefly described how this decision is consistent with three principles in its SEV: environmental protection, the ecosystem approach and resource conservation. MOE noted that this regulation contributes to environmental protection since it protects human and environmental health. In its consideration of resource conservation, MOE stated that this regulation will protect human health and does not explicitly conserve drinking water resources. Finally, MOE noted that the ecosystem approach does not apply to this project since the regulation governs only testing of drinking water and notification procedures. However, it is the opinion of the ECO that there could be an ecosystem approach to testing.

Other Information:

On June 12, 2000, the provincial government established a commission of inquiry under the *Public Inquiries Act* to inquire into the *E.Coli* contamination of the water supply in Walkerton, and into the safety of Ontario's drinking water. The Honourable Dennis R. O'Connor was appointed as the Commissioner. The findings, conclusions and recommendations of the Commission will be delivered to the Attorney General of Ontario, who must make them public.

MOE has posted other notices that are related to this decision. On August 9, 2000, MOE posted a policy proposal notice that dealt with the development of testing and reporting requirements for Ontario's small waterworks, which are not subject to the new regulation (PA00E0027). MOE conducted a 90-day consultation on the issue, which included meetings with municipalities, conservation authorities and other stakeholders. The proposal provided an 83-day comment period for the public to send in comments and suggestions. It contains a link to a discussion paper entitled, "Protecting drinking water for small waterworks in Ontario" dated August 9, 2000. The paper outlines key objectives and issues for the policy. MOE indicated this would eventually result in a regulation for small waterworks, and announced in March 2001, that options had been developed. The ministry did not finalize the proposed regulation during this reporting period.

In July 2001, MOE posted an exception notice simply notifying the public that MOE has now compiled the "Adverse Water Quality Incident Reports" on the MOE Website, where they are available for public viewing (PA00E0026). These reports are supplied by water treatment facility owners if their testing of local water supplies shows adverse results, including *E. coli*, fecal coliform or boil water advisories. MOE also stated it would post new or updated reports as they are received. The ECO notes that new reports were posted on MOE's Website on a regular basis following this. The ECO commends MOE for this positive use of the Registry.

In August 2001, MOE posted another related proposal notice (RA00E0015). It proposed amendments to O. Reg. 435/93 for waterworks and sewage works that would create a new category of licence called a "water quality analyst" and add a new approved training requirement for all operators. This proposed regulation was not finalized during this reporting period.

In addition, an application for review was submitted to MOE under Part IV of the *EBR* on the need for a Safe Drinking Water Act in Ontario that is similar to that of the U.S. The application was filed on June 22, 2000, by the Canadian Environmental Law Association, Toronto Environmental Alliance, and Dr. Adam Winterton. The applicants argued that the legislation was necessary due to:

- the gap in the current legislative regime in safeguarding drinking water quality in Ontario;
- the paramount importance of protecting drinking water quality to prevent harm to public health and safety;

- the undermining of MOE's institutional ability to safeguard drinking water quality due to provincial downsizing, downloading and deregulation;
- the positive experience in the U.S. with its legislation;
- compliance with MOE's SEV; and
- the fact that the drinking water quality issue is not otherwise subject to periodic review and no new resources would need to be allocated to conduct the review.

MOE agreed to review the application but found that there was no need for a Safe Drinking Water Act in Ontario at this time. The ECO is currently reviewing the decision. See the Supplement to this report for further details.

ECO Comment:

Drinking water quality is a critical and ongoing issue for all citizens of Ontario. The Walkerton tragedy has brought this issue to the forefront, and O. Reg. 459/00 is a very good start by MOE. The regulation responds to some of the specific issues that were raised in the wake of Walkerton and may prove to be effective in addressing some of these issues. It provides for the proper testing of drinking water, notice to MOE and the public when there is a potential problem, and reporting requirements that would allow MOE to monitor water treatment and distribution systems throughout the province on a regular basis.

While the regulation makes the treatment and disinfection of drinking water mandatory, it provides that this treatment could be one that the MOE Director finds is equally effective as chemically assisted filtration and chlorination. However, the regulation does not specify which methods of alternate treatment are acceptable. This is a very significant omission. While the ECO understands that the regulation had to be developed quickly due to the circumstances, MOE should have provided an interpretation of the regulation which outlined alternate acceptable treatments. MOE's failure to do this may essentially stifle the development of new equivalent technologies that could provide equally effective treatment. MOE should rather, where necessary, be supporting research to help stimulate the development of new technologies. Acceptable forms of treatment also need to be defined in order to give communities options for treating their water. The chemically assisted filtration systems that are required to treat all surface water are very expensive to implement. It would be extremely helpful for smaller communities in particular to be informed of less expensive, equivalent alternatives from which they can choose.

The cost of implementing this regulation is a key concern. However, in April 2001, the province committed $240 million to help eligible municipalities cover the costs of health and safety infrastructure under the Ontario Small Town and Rural Development initiative. Part of that total will go toward bringing municipal water systems into compliance with the new regulation. MMAH also announced that the government is providing up to $3 million of that total to more than 175 municipalities to help cover the costs of engineering studies to identify capital projects necessary to meet the drinking water protection standards.

Cost is particularly important for those smaller water systems that just fall under the authority of the regulation. These include the systems used by campgrounds, nursing homes, resorts, etc. Furthermore, historically there have been problems when owners of these system fail even to obtain a CofA for the system as required under the *Ontario Water Resources Act*.

Finally, there are many implementation issues with the regulation. The issue of drinking water quality monitoring and treatment is extremely technical and complex. MOE does not appear to have sufficiently thought all of the issues through and may have made some decisions in haste in an effort to respond to a crisis as quickly as possible. The ECO will be closely monitoring the application of O. Reg. 459/00 by MOE to see how this is handled.

Review of Posted Decision:
North Granite Ridge Golf Centre

Decision Information:

Registry Number:	IA00E0906	Comment Period:	30 days
Proposal Posted:	5-May-00	Number of Comments:	2
Decision Posted:	12-Sep-00	Permit issued:	September 6, 2000

Description:
In September, 2000, the Ministry of the Environment issued a permit to take water (PTTW) to North Granite Ridge Golf Course for the purpose of irrigation. The source of the water is three overburden (shallow) wells. The amount of water that the permit holder can extract is 455 litres per minute, 272,760 litres per day for a maximum of 10 hours per day, with an average of 8 hours per day for 184 days per year.

Implications of the Decision:
MOE did not address the potential environmental, social and economic consequences of this instrument in the Registry posting. MOE should have addressed these implications.

Public Participation & *EBR* Process:
This instrument proposal had a 30-day comment period on the *EBR* Registry. No other public consultation was undertaken on this proposal.

Two comments were submitted on the proposed instrument. They were not summarized in the decision notice, and MOE used boiler-plate language to describe how they affected the ministry's decision to issue the PTTW.

SEV:
MOE does not consider its SEV when issuing instruments. MOE's SEV states that "the ministry will adopt an ecosystem approach to environmental protection and resource management." By not considering its SEV in the granting of permits to take water, an act which could potentially adversely impact an entire ecosystem, MOE is not succeeding in its goal to adopt an ecosystem approach.

Other Information:
N/A

ECO Comment:
Description of the Decision
The *EBR* Registry decision notice for the North Granite Ridge Golf Centre describes the PTTW as:

> Amendment to permit for Golf Course Irrigation. Source is overburden wells #1, 2 & 3. Maximum amount requested is 455 litres per minute, 272,760 litres per day, for maximum of 10 hours per day, average of 8 hours per day for a maximum of 184 days per year.

This description is wholly inadequate. It does not describe the previous permit or how the current permit amends the previous one, nor does it describe why an amendment is necessary. The language used to describe the PTTW is too technical – for example, the term "overburden well" is not defined. While it may require additional work to explain specialized words and phrases, MOE should use plain language so that the public can understand these types of proposals. The decision notice fails to describe the other uses of groundwater in the area, fails to address the environmental impacts of the water taking and fails to state when the permit expires. Notices should include expiry dates for time-limited instruments so the public understands the time frame for the proposed activity.

Several concerns raised by the commenters were not addressed at all by MOE within the Registry decision notice. These concerns included:

- interference with the drinking water supply of subdivision residents as result of water taking by golf course;
- effect of pesticides and fertilizers used at golf course on drinking water quality;
- impact on public beach and lake; and
- interference with water quality and quantity due to expansion of golf course.

In addition, the decision notice states that special terms and conditions were added to the permit in response to the public comments. However, these special terms and conditions are not described. This is problematic because the permit initially was not available on-line via the hypertext link. While the link was not functioning when the decision notice was posted on the Registry, MOE eventually did get it working two weeks later. In order to learn what these special terms and conditions were, interested parties had either to call or write to MOE. These terms and conditions should have been explained in the decision notice. It is vital that Registry notices contain adequate detail, for without it the public may not understand the environmental significance of a proposal, how their comments were taken into account, or the nature of the decision. The public requires prompt access to this information to exercise their rights under the *EBR*, including time-limited leave to appeal rights, and to participate effectively in the decision-making process.

Description of Comments

Two comments were submitted in response to the instrument proposal notice, but they are not summarized in the decision notice and boiler-plate language is used to describe the effect they had on the ministry's decision to issue the permit. The decision notice reads as follows:

> Comments received were reviewed and where appropriate were considered in the ministry's decision whether or not to proceed with this proposal. In this case, comments were consistent with concerns within the ministry and as a result terms and conditions were added. These conditions do not represent all conditions imposed on the instrument holder but rather those that are directly in line with comments received. Comments were answered through correspondence, but did not affect the decision to grant the Permit to Take Water.

This description of the impact of public comments is unacceptable. It is not apparent from the decision notice what the commenters' concerns were nor whether they supported or opposed the PTTW. It is also difficult to ascertain whether, or in what respect, the comments affected the ministry's decision to issue the PTTW. The decision notice states that concerns expressed by the commenters were consistent with concerns held by the ministry, but those concerns are not described. As well, MOE states that as a result of those concerns, terms and conditions were added to the permit. However, the terms and conditions are not summarized. MOE should have summarized the comments, stated whether the ministry made any changes as a result of each comment, and explained why or why not. They also should have described the special terms and conditions attached to the PTTW in response to the public's concerns.

Access to the Permit

MOE is increasingly providing electronic links to supporting documentation for Registry notices. This is a positive development that saves residents a great deal of time in accessing more detailed information and facilitates public participation. However, in this case, the PTTW was not initially available online because the hypertext link did not function properly. MOE should ensure that the links they include in Registry notices are operational at the time of posting.

Review of Posted Decision: Horseshoe Carbons Incorporated: Approval for discharge into the natural environment other than water (i.e. air) under s. 9 *EPA*

Decision Information:

Registry Number:	IA9E1370	Comment Period:	30 days
Proposal Posted:	December 10, 1999	Number of Comments:	4
Decision Posted:	October 16, 2000	Approval Granted:	March 29, 2000

Description:

In December 1999, Horseshoe Carbons Incorporated (Horseshoe) applied to the Ministry of the Environment (MOE) for a certificate of approval (CofA) under Section 9 of the *EPA* for the discharge of material into the natural environment other than water (i.e., air). Located in the City of Burlington, Horseshoe operates a plant that reactivates spent activated carbons originating from municipal water treatment plants (WTPs). The reactivation process involves drying the spent carbon, physically separating any impurities from the spent carbon, and reactivating the carbon through steaming action and sieving. The facility is equipped with a boiler to produce the necessary steam, a rotary drier and a rotary reactivation furnace. Each of these three pieces of equipment has a discharge stack. The building is ventilated by three roof fans, and dust inside the building is controlled by a baghouse dust collector and a multi-cyclone machine.

In its December 1999 application, the company initially advised MOE that it would capture between 85-90 per cent of the dust from its carbon dryer and a significant portion of the dust from the kiln. It is apparent that these rates of carbon dust recovery were excessively optimistic.

Implications of the Decision:

Local residents and some Hamilton residents believe that this approval has significant environmental, health and social implications. They believe that Horseshoe Carbons will release large amounts of carbon compounds, dioxins and furans, suspended particulate matter, heavy metals and volatile organic compounds (VOCs) into the atmosphere, and this may cause soil, air and water contamination with subsequent long-term and cumulative effects on the surrounding area. Local residents also are worried about potential health impacts from the permitted emissions, particularly through the known endocrine disruption and carcinogenic effects of dioxins and furans. They worry that these types of chemicals are released into the atmosphere when the used carbon is heated.

In considering these concerns, it is essential to bear in mind that many decisions that might seem small and less significant often have important cumulative environmental effects. Slow deterioration of natural resources and ecosystems because of ongoing discharges of chemical pollutants to air, water and land is a factor that is important and should be considered in the determination of terms and conditions in certificates of approval such as this. Local residents contacted the ECO several times in the spring and summer of 2000, claiming that emissions of carbon dust were much higher than forecast by the company in 1999; indeed, some residents told the ECO that carbon dust emission levels in the spring of 2000 were significantly higher than the maximum allowed by provincial regulations.

To gather more information about this approval (e.g., the rate of carbon dust emissions and whether MOE staff might have considered the cumulative effects of this approval on the local airshed), the ECO contacted the MOE on several occasions in April and May 2001. However, as of late July 2001, MOE had failed to respond to ECO inquiries.

Public Participation & *EBR* Process:
MOE provided a 30-day comment period for this proposal, a reasonable approach considering the relatively small size and scope of the proposal. The ministry received four comments, mostly from concerned citizens living in the East Hamilton area and a local community organization. According to MOE, all comments received were considered , d MOE staff added new conditions in the CofA where the proposed changes "were consistent with concerns within the ministry." MOE also stated in its decision notice that the company held a number of meetings with concerned citizens to provide information and review concerns before the CofA was issued, although this was not required. However, one resident advised the ECO that attendance at the company's meeting was "by invitation only."

The comments received on the proposal expressed concerns with the lack of information contained in the proposal notice and requested further information regarding:

- the emission levels, air dispersion modelling, and emission monitoring of the following contaminants: suspended particulate matter, carbon monoxide, sulphur dioxide, heavy metals, dioxins and furans and VOCs;
- the type of control equipment used in the operation and its efficiency; and
- the source and type of spent carbon to be processed at the proposed facility.

In addition, the commenters raised concerns with the cumulative health and environmental effects of the proposal on the East Hamilton area airshed. They noted that residents of East Hamilton have experienced serious health problems that they allege are related to air pollution discharges from industries in the area. The commenters also noted that there are three main industrial sources that already emit pollutants into the Hamilton-Wentworth airshed. First, the SWARU incinerator, which recently received permission from the local municipality to increase toxic air pollution by burning more solid waste. Second, the nearby industrial core includes major dischargers such as the sinter plant at Stelco. Moreover, commenters stated that the large Dofasco plant also discharges into the local airshed.

The commenters went on to note that the emissions from Horseshoe Carbons would contribute a great deal to new air pollution to the East Hamilton airshed. The applicants believe that, taken together, these sources can cause severe damage to the environment and people's health. The

Hamilton Air Quality Initiative (HAQI) report concluded that there is already "a substantial burden of illness and premature deaths associated with the air pollution in Hamilton-Wentworth." The commenters were especially concerned about the contaminants that would be removed from the carbon, where those contaminants would end up, and how they would eventually affect the already damaged environment in the area specified. The citizens in the area want to ensure that the Horseshoe Carbon site will not add to the already "unacceptable burden of these persistent, cancer-causing, hormone/mimicking substances."

In response to comments regarding concerns about air discharges from operation of the plant, MOE added some new conditions to the Certificate of Approval:

- source testing that would determine the emission rates of the above mentioned contaminants and additional contaminants, and serve to monitor emissions;
- air dispersion modelling that is conducted using the ISCST3 model for odour and Reg. 346 model for other contaminants;
- the proposed facility can only process spent carbon used in the removal of organic chemicals from drinking water within the area of the Regional Municipality of Niagara; and
- the equipment used to control dust in the facility must be operated at maximum efficiency.

It is essential to note that the use of the ISCST3 model for odour discharges is a considered an advancement by most experts because this model is more precise than previous models used for odour under Regulation 346.

While the Certificate of Approval was issued on March 29, 2000, MOE did not post its decision notice until October 16, 2000. Section 36 of the *EBR* requires ministries to post decision notices on the Registry "as soon as reasonably possible" after they are implemented. This delay meant that the public was unable to review how their comments had been taken into account in a decision notice posted on the Registry. The delay probably also frustrated the public's right to apply for leave to appeal, as members of the public rely on the Registry to inform them of when a decision they may wish to appeal has been made.

SEV:

Once a ministry identifies a proposal for an environmentally significant decision, it must consider its Statement of Environmental Values (SEV). As reported in the ECO's 1994-95 annual report, MOE takes the position that ministry staff are not required to consider its SEV when they make decisions on instruments. Thus, ministry staff would not have considered the MOE's SEV in making this decision. As pointed out in the 1994-95 report, the ECO strongly disagrees with MOE's interpretation of how the SEV requirements apply to instruments. The ECO takes the position that all environmentally significant decisions of the ministries are subject to the SEV consideration in S. 11 of the *EBR*.

It is noteworthy that MOE's SEV states that it is "committed to public participation and will foster an open and consultative process in the implementation of the Statement of Environmental Values." The SEV also states that the mandate of the ministry is to "protect the quality of the natural environment so as to safeguard the ecosystem and human health." By expanding on recent initiatives to consider the cumulative impact of approvals for a particular airshed, the MOE could further their expressed environmental values.

Other Information:
On November 6, 2000, the ECO received an application for leave to appeal the decision to grant the approval from five concerned residents. The following day, the Environmental Review Tribunal (ERT) informed the applicants that it could not consider the application since it was received more than 15 days after the decision on the instrument was posted on the Registry. Section 40 of the *EBR* sets out this strict time requirement. The applicants cited the following grounds for their leave to appeal application: concerns over the absence of any requirements in the CofA for air pollution control systems on the stacks; the absence of clear operating hours for the plant; the failure of MOE to specify the maximum amount of carbon to be processed at the plant; a lack of detail regarding stack testing requirements; the arbitrary expiry date of March 31, 2001; the failure of MOE to describe how the spent carbon will be stored; and general concerns with MOE's handling of the proposal and compliance with the notice and comment requirements of the *EBR*. Notice of ERT's decision on the application was posted on the Registry on November 9, 2000.

On February 16, 2001, MOE posted a proposal notice to extend the approval deadline for source-testing by six months and to upgrade existing pollution control equipment with the addition of one new wet scrubber. The notice also stated that MOE and the company would hold a public meeting on the changes to the CofA and the company would conduct a tour of the facility in February 2001. The provisional CofA was set to expire on June 30, 2001.

The February 2001 notice also indicated that the facility wishes to expand its service area so that it can process "spent granular activated carbon generated by drinking water treatment plants in southern Ontario and Quebec." The goal is to double or even triple the volume of spent carbon processed at the plant. This increase in processing would undoubtedly increase the rate of carbon dust emissions from the plant, but the February 2001 proposal did not describe the environmental impacts of such an expected increase in emissions.

In late June 2001, Horseshoe Carbons temporarily shut down and laid off its four workers when its provisional CofA expired. A company spokesperson said that the company closed because it had run out of carbon to process. Local residents claim that emissions of carbon dust are much higher than forecast in 1999; indeed, one resident says that carbon dust emission levels in the spring of 2001 were 70 per cent higher than the maximum allowed by provincial regulations. Moreover, in July 2001 the company admitted that it was capturing less than 85 per cent of dust from its carbon dryer and none from its kiln. The company advised MOE in July 2001 that it was proposing to install a scrubber that would remove more than 95 per cent of dust particles from both sources.

ECO Comment:
The evidence reviewed by the ECO suggests that MOE did consider the comments received during the comment period. The ministry also took a proactive step of encouraging the proponent to hold a public meeting that drew more attention to the upcoming decision and served to encourage comments. The efforts of MOE staff appear to have improved the quality of the final decision and the approval granted in this case. The ECO staff reviewers were unable to identify evidence which clarified whether the residents concerns about the potential implications of VOC, dioxin and furan discharges were justified. Nevertheless, the ECO recognizes that the residents appear to have legitimate concerns about the carbon dust emissions from the plant.

In addition, there are several areas of concern raised by this case that should be addressed by MOE. First, the unreasonable delay by MOE in posting its decision notice on the Registry is problematic and might have affected appeal rights of the concerned residents who were monitoring this approval. Second, the use of highly technical language in the proposal and decision notices probably decreased the potential for public participation in this case. More generally, better information regarding the environmental and cumulative impacts of the proposed emissions from these types of plants might encourage more specific and informed public responses.

Review of Posted Decision:
Regulatory Improvements for Hazardous Waste Management

Decision Information:

Registry Number: RA00E0002 Comment Period: 90 days
Proposal Posted: February 3, 2000 Number of Comments: 36
Decision Posted: November 8, 2000
Approval Implemented: Reg. 558/00 was filed with the Registrar October 10, 2000 and published in the Ontario Gazette October 28, 2000. Some parts came into effect upon publication in the Gazette; most came into effect on March 31, 2001

Description:

O. Reg. 558/00 amends Ontario Regulation 347 General - Waste Management, under the *Environmental Protection Act* (*EPA*). MOE's stated objective was to strengthen the rules to meet U.S. standards. The regulation amends the provisions for classifying wastes as hazardous and thus subject to the special requirements for handling and disposal of hazardous wastes. MOE and waste handlers are required to classify a waste as hazardous if it meets either of the two main criteria: if it is included in the listings of subject wastes (Schedules 1, 2A and 2B of Regulation 347) or if tests show it is ignitable, corrosive, reactive, or leachate toxic. The result of these revisions to the lists and one of the testing procedures is that more wastes will now be considered hazardous. The amendments fall into four categories:

1. Replacing the Leachate Extraction Procedure (LEP) with the Toxicity Characteristic Leachate Procedure (TCLP) adopted in the U.S., and expanding the list of leachate quality criteria.

Ontario has been using the LEP test since 1985 to predict whether a waste is likely to leach contaminants into groundwater. The U.S. EPA replaced the LEP with a more sophisticated testing procedure, the TCLP, in the late 1980s. The federal government is currently developing regulations under the *Canadian Environmental Protection Act* to also adopt the TCLP to harmonize testing requirements across North America. MOE formally adopted the TCLP test and also increased the number of leachate quality criteria, or parameters, to test from 31 to 88, as also proposed by the federal government. The U.S. regulations currently require testing of only 40 parameters.

2. Adopting the "derived from" rule.

In September 1999 MOE amended Reg. 347 without providing a 30-day notice and comment period as required by the *EBR*. MOE contended that this exception was justified because of the ministry's investigation into wastes imported from the U.S. to the Taro East Landfill in Stoney Creek, Ontario. To ensure that such wastes would not be allowed at non-hazardous landfills in the future, MOE adopted the U.S. "mixture" rule, which states that a listed hazardous waste remains classified as hazardous even when mixed with another substance. In this decision MOE also adopted the provisions in U.S. regulations which state that any material "derived from" the treatment of a listed hazardous waste by blending, stabilizing or processing, is also a listed hazardous waste. For example, this would include ash from the incineration of a listed hazardous waste. This rule is intended to stop the practice of minimally processing a hazardous waste and claiming that the resulting residue is no longer hazardous. The "derived from" rule will not apply if: the waste is specifically listed as exempt in the regulation, for example, the four exemptions described below in Schedule 1.1; if a formal regulatory delisting has been accepted by the ministry; or if the ministry approves a site-specific CofA which states that the resultant waste no longer retains the original characteristic.

3. Amending the Listings

The listings of hazardous wastes were amended to adopt the types of waste and wording used in the U.S. EPA Schedules:
Schedule 1 - Hazardous Industrial Waste
- added 58 wastes to the existing list of 96

Schedule 2A - Acute Hazardous Waste Chemicals
- added 37 and removed 1 from the existing list of 206

Schedule 2B - Hazardous Waste Chemicals
- added 37 and removed 2 from the existing list of 472

MOE also revoked the definition of "metal finishing" in the regulation and replaced it with a revised definition of "electroplating" to exempt certain types of wastes produced from automobile manufacturing and electroplating activities.

Schedule 1.1 - Exempt Hazardous Industrial Wastes was amended to add four types of wastes exempted from the "mixture" and "derived from" rules in U.S. regulations:
- sludge generated by lime stabilization of spent pickle liquor generated by the iron and steel industry
- waste from burning materials such as hazardous waste fuel produced from oil-bearing wastes from petroleum refining, oil reclaimed from oil-bearing hazardous wastes, and used oil that exhibits a hazardous characteristic
- non-wastewater residues, such as slag, resulting from high temperature processing of metals waste by the iron and steel industry
- biological treatment sludge from the treatment of organic wastes such as spent solvents

4. Administrative amendments

One amendment described by MOE as "administrative" is not really administrative, and was not included in the proposal notice for public comment. MOE removed the provision requiring generator registration and MOE notification for wastes producing leachate with contaminants at levels from 10 per cent to 100 per cent of the leachate quality criteria. These wastes used to be called "registerable solid wastes," meaning that they were registered and tracked the same way as subject wastes, even though they tested below the threshold to require disposal as hazardous waste.

The ministry also revised its "Registration Guidance Manual for Generators of Liquid and Hazardous Waste" (the Manual) to reflect the amendments made to the regulation.

Implications of the Decision:
The main result of this decision is that some wastes previously classified as non-hazardous will now be considered hazardous, and will be subject to the requirements of Reg. 347 for handling and disposing of "subject wastes." The decision did not change any of the existing requirements for handling or disposal. Subject wastes must be registered with the MOE and tracked from their point of generation through to their ultimate disposal. These wastes also must be handled by specially licensed waste haulers and can be disposed of only at sites licensed to receive hazardous wastes.

MOE could not quantify the expected increase in hazardous waste, but noted that when the TCLP replaced the LEP in the U.S., the quantity of hazardous wastes doubled. The addition of the "derived from" rule and the addition of new types of waste to the listed hazardous wastes will also increase the amount of waste considered hazardous.

This regulation has economic impacts for industry. In the months leading up to March 31, 2001, when the requirements came into effect, most waste streams had to be tested for the full set of parameters to determine whether they were hazardous. This was a significant one-time cost, and industry predicts an increase in the costs for ongoing testing. MOE has said that generators can decide how many parameters to test, but there will be significant pressure from receivers for testing of the full list. Stakeholders commented that unlike the U.S., in Ontario it is the receiving facility who becomes responsible, once it agrees to receive a shipment, for the consequences if it is later discovered that the wastes were hazardous. Industry commenters predicted that most receivers such as municipal landfills will require generators to prove they have tested wastes for all 88 parameters to ensure they are not later liable for cleanup costs.

Apart from the testing costs, it also costs much more to dispose of hazardous waste than non-hazardous, especially since some types of hazardous wastes have to be sent to the U.S. or other provinces for incineration in rotary kilns. Ontario does not have any rotary kilns, since a major government facility proposed in the early 1990s was rejected by the Environmental Assessment Board, and another proposal was withdrawn.

All waste disposal sites that used to receive some of these reclassified wastes will either have to stop receiving those wastes or apply to the ministry for amendment to their CofAs, or apply to have a process or product "delisted."

The environmental impact is positive. More wastes will be diverted from non-hazardous waste landfills and instead receive treatment as hazardous wastes, which will better protect the environment surrounding municipal landfills across the province. However, it means that more wastes will be disposed of at the Safety-Kleen facility near Sarnia, which includes Ontario's only commercial landfill for hazardous and solidified liquid industrial waste, and the primary incinerator for hazardous and liquid industrial wastes. Safety-Kleen received approval in 1997 for a 1.9 million cubic metre expansion of the landfill, which was predicted at that time to extend its life by 15-20 years. As of December 2000, its life expectancy was already reduced to about five more years, because it had received much more waste annually than predicted in 1997. The increase in the volume of waste received as a result of this regulation will reduce its life expectancy further, perhaps prompting another application for expansion of the landfill.

In September 2000 two *EBR* applications were submitted requesting review of the Certificates of Approval for the incinerator and landfill at the Safety-Kleen facility. The applicants requested MOE revise the CofAs to match the more aggressive U.S. regulations for hazardous waste, such as the stringent air emission limits for hazardous incinerators and the treatment standards for hazardous wastes to be landfilled. The ministry responded that no changes to the certificates were required, but that the company was initiating actions to address some of the applicants' concerns. The ECO review of the ministry's handling of those applications is found in the Reviews and Investigations section of this annual report and the Supplement.

In November 2000, Safety-Kleen applied to MOE for approval to improve air pollution controls and at the same time increase the volume of hazardous waste it can incinerate: "The proposed changes will permit an effective response to an increase in hazardous waste generation anticipated when O. Reg 588/00 becomes effective in March 2001." The increase in disposal at Safety-Kleen may have negative effects on the surrounding region. For example, there is a potential for increase in releases of dioxins, furans, mercury, lead, other metals, and particulates, which are just a few of the approximately 140 pollutants emitted from the incinerator. In its Registry proposal notice and CofA application, the company said it will be making technological improvements to reduce emission rates, but did not provide estimates of the total existing or proposed loadings of emissions. The ECO will monitor MOE's decision on the approvals.

Some stakeholders were concerned that the regulation will have a negative impact on the remediation of contaminated sites. They suggest that the stringent new limits for certain leachate quality criteria could discourage site cleanup and redevelopment because they will: 1) increase costs for testing and disposal; 2) add an unneccessary strain to landfill sites; and 3) discourage technological advances such as bioremediation.

MOE said the "derived from" rule will prevent the past practice of generators and operators who minimally treated listed wastes and claimed the resulting residue was not hazardous in order to evade more expensive disposal and treatment requirements for hazardous wastes. Concerns have been raised that this rule will discourage recycling, but MOE has included provisions to exempt products or processes if it can be proven that the resultant material is no longer hazardous. Exemptions can be made by "delisting" a waste by regulation or by amending a site-specific CofA. This rule should have a positive environmental impact.

The environmental benefit of the "derived from" rule is weakened somewhat by the exemptions, because MOE adopted the U.S. EPA's broad categories of exemptions outright without the conditions and additional requirements contained in the U.S. EPA regulations. The U.S. exemptions for some of the materials are conditional on the wastes meeting limits on contaminants, and require proponents to notify the public and the EPA and certify their intention to claim the exemption. For example, residues such as slag from the iron and steel industry are exempt in the U.S. only if they meet the exclusion limits for a number of contaminants. The company must notify the public and the EPA and certify that the residues meet the conditions. The U.S. exemption for oil-based wastes burned as fuel applies only if the fuel meets certain specifications for the levels of hazardous constituents, heating value and other criteria. It also contains requirements for public notice, testing, operating parameters and other matters. The Ontario regulation does not refer to any limits on contaminants, or other specifications or conditions.

Public Participation & *EBR* Process:
The 90-day comment period was appropriate for such a major initiative. Ministry staff also held meetings with 17 stakeholder groups. The ministry appears to have taken many comments into consideration and made some of the requested changes. For example, many stakeholders expressed concern about available laboratory capacity and capability, and concern that the ministry would not be able to handle the number of CofA amendments that would need to be processed. To address this concern the ministry decided that the provisions relating to hazardous waste testing and classification would be effective March 31, 2001. The ministry said it would allow waste generators and receivers time to test their waste streams, submit revised Generator Registration Reports, or to request "delisting" or amendment of their certificates of approval if necessary.

In response to comments the ministry also deleted five parameters from the originally proposed list of 93 test parameters, and provided the reasons in the decision notice. As a result of comments by the vehicle manufacturers industry, MOE revoked the definition of "metal finishing" and replaced it with a new definition for "electroplating" to exclude several kinds of wastes produced by vehicle manufacturers. The industry asked for this to reflect a recent U.S. court decision in favour of the industry over the U.S. EPA.

The decision notice also described some comments from stakeholders that were considered by the ministry, but did not result in changes to the proposal. MOE also provided further explanation of some of the technical issues raised by industry during this consultation in a "question and answer" appendix in the Registration Guidance Manual, available on MOE's Website and through a link from the Registry decision posting.

For example, several stakeholders were concerned that the amendments are incompatible with the MOE Guideline for use at Contaminated Sites in Ontario, because soils meeting acceptable standards in the Guideline could fail the new leachate tests and require disposal as hazardous waste. In the decision notice the ministry said it reviewed the specific amendments and concluded that the "derived from" and the "mixing" rules do not apply to wastes generated from site decommissioning, but did not address the concerns around the testing criteria. However, the question and answer sheet appended to the Manual says that "MOE has decided that strict application of the 'mixture' and 'derived from' rules is not appropriate for remediation wastes," but that the wastes must still be tested to see whether they possess any other hazardous waste characteristics, such as the leachate toxic criteria. It is unfortunate that MOE did not resolve the apparent conflict between the Contaminated Sites guideline and Reg. 558/00 before finalizing the regulation.

ECO's review of the public comments found many serious concerns not acknowledged at all in the ministry's decision notice. For example, the ministry did not respond to concerns about how the ministry would manage the anticipated increase in demand for hazardous waste treatment and disposal. Many stakeholders raised concerns about increasing disposal at Safety-Kleen in Sarnia, for environmental and economic reasons. A major concern is that the increase in the amount of material classified as hazardous waste will reduce the life expectancy of the Safety-Kleen landfill and subsequently raise costs for industry. Stakeholders described the increased costs to industry of finding alternate disposal options when the site was closed by MOE for a short period in 1999.

A wide range of stakeholders, including environmental policy groups, consultants, industry associations and Environment Canada, said that the proposed changes were too narrow and did not go far enough. They said that the changes would not achieve the ministry's stated objectives to strengthen the rules to meet U.S. standards, and described additional measures required to achieve these goals.

Environment Canada said the amendments wouldn't accomplish MOE's stated goal of placing stricter controls on imports of hazardous wastes from the U.S. because waste imports are classified and regulated by the federal government, not the provincial, and because U.S. treatment and disposal standards were not being adopted. Several submissions raised the concern that even though Ontario will now use the same lists and criteria to identify hazardous wastes, the standards for treatment and disposal remain far less stringent than those of the U.S.. The U.S. listings of hazardous wastes are accompanied by Universal Treatment Standards (UTS) for each type of waste as part of the Land Disposal Restrictions introduced in 1994. The UTS ensure that classified hazardous wastes meet stringent treatment far exceeding the leachate values before they can be applied to land. Environment Canada concluded that without adopting the UTS, "the amount of waste coming into Ontario from the U.S. would not be affected by the adoption of the ..lists alone" and that "adoption of the UTS is an essential complementary component to the hazard characterization for waste." For example, many types of waste would have to meet only the Leachate Quality Criterion for cadmium of 5.0 mg/L to be considered non-hazardous in

Ontario. Wastes leaching cadmium at a rate greater than 5.0 mg/L would be considered hazardous, but could still be disposed of in the Safety-Kleen landfill with no upper limit on cadmium concentration. In the U.S. these types of wastes are subject to the Land Disposal Restrictions, and would have to be processed or treated further so that the cadmium does not leach greater than 0.19 mg/L before they could be disposed of on land. This example is representative of all listed wastes and chemicals.

Environment Canada, the Canadian Institute for Environmental Law and Policy, and a U.S.-based consulting firm all pointed out that the exemptions from the "derived from" rule would have very different effects in Ontario than in the U.S., because the U.S. rules require extensive testing and treatment to ensure that concentrations of toxics in wastes meet stringent limits before they can, for example, be burned as fuel. One submission from the U.S. warned Ontario about adopting the exemption for slag residues as proposed, particularly given the significant concentration of steel production facilities in the province. The U.S. exemption still requires slag material to meet the land disposal restriction standards before it can be placed on the ground in landfills or applied as a de-icing or other type of "reuse" application. That submission included a report showing that recycling of steel industry wastes is much higher in the U.S. than in Canada, because of the land disposal restrictions. MOE did not acknowledge or address these concerns in its decision notice.

As part of its decision, MOE removed, without any notice, the requirement for generator registration and MOE notification of wastes producing leachate with contaminants at levels between 10 and 100 per cent of the Leachate Quality Criteria. This lack of transparency is a concern for the ECO, since the draft regulation provided with the proposal posting for Reg. 558/00 still contained this requirement. MOE's decision notice said that this change was part of the MOE's Draft Waste Management Regulation previously posted on the Registry for comment in 1998, and that it had received no comments on that part of the earlier proposal. MOE should not have incorporated part of an earlier proposal into this regulation at the decision stage. MOE should have included the change in the proposal posting for Reg. 558/00 in 2000. The public should be able to trace MOE's decision-making and provide comments in light of other proposed changes.

SEV:

The ministry's documentation of SEV consideration is less than one page long. It does not appear that MOE gave much thought to the SEV in making this decision, yet the decision is consistent with the SEV. The SEV contains a commitment to "putting priority first on preventing and second on minimizing the creation of pollutants . . ." Many stakeholders complained that the mixing and "derived from" rules would discourage reuse and recycling of hazardous materials. Other commenters and ministry staff have said, however, that the amendments should provide incentive for waste generators to reduce the production of hazardous waste at source, to avoid the increased costs of disposal.

The Regulatory Impact Statement (RIS) included in the Registry proposal notice was poor, and was criticized by several stakeholders. They complained that it contained anecdotal evidence from other jurisdictions, without quantification, and did not provide sufficient information to evaluate the benefits and costs of the proposed changes.

Other Information:

The ministry announced a "six-point action plan" on September 17, 1999, to "strengthen Ontario's hazardous waste regulation and requirements for hazardous-waste facilities in the province." The minister announced the plan on the same day as he released the findings of the investigation into the wastes disposed of at Taro East Landfill. The six-point plan included the immediate changes to introduce the "mixing rule" and giving immediate legal force to the Generator Registration Manual. The third point was "revising the current hazardous waste manifesting and regulation [sic], to be the toughest in Ontario history, with a view to strengthening and modernizing it to become comparable to, and compatible with, U.S. rules."

After this regulation was proposed in early 2000, the Canadian Institute for Environmental Law and Policy submitted an *EBR* application requesting a review of the need for more reforms to the regulatory system, including adopting U.S. rules for emission limits from hazardous waste incinerators and the Land Disposal Restrictions. As reported in the 1999/2000 ECO annual report (pages 100-102), MOE denied the application but said that, in addition to this proposed regulation, "the Ministry is committed to further reviewing its hazardous waste regulation and further initiatives, including the banning of untreated hazardous waste being landfilled." The ECO recommended that MOE provide the applicants and the public with more detail on the ongoing review, including the scope, status and expected completion date. Instead, when announcing that this regulation had been finalized, the ministry announced that "The province has now fulfilled its six-point action plan announced in September 1999," and in a February 2001 report to the ECO on that specific recommendation, did not mention any ongoing review.

The ECO also recommended that the ministry clarify the relationship between its 1998 "Waste Management Regulatory Reform" proposal and the current review, and explain whether the ministry would be implementing the earlier (1998) proposal. In February 2001, MOE said that it was still reviewing individual components of the earlier proposal.

ECO Comment:

MOE carried out a comprehensive public consultation, posting the proposal on the Registry for 90 days and also conducting meetings and workshops with stakeholders. The ministry made some changes to address comments, but did not acknowledge or attempt to resolve various significant concerns raised by a large number of stakeholders. One additional revision to the regulation was made by the ministry at the decision stage, without an opportunity for public comment.

Harmonizing the regulation with U.S. rules to ensure that wastes considered hazardous in the U.S. are also considered hazardous in Ontario is a positive move. It means that many potentially harmful wastes will be banned from Ontario's municipal landfills, and will be handled and disposed of as hazardous waste. This should prevent future leaching of toxic wastes into ground and surface water from municipal landfills that were not designed to contain hazardous wastes. It may also encourage generators of the wastes now considered hazardous in Ontario to undertake pollution prevention measures to reduce their generation at source, to avoid the expense of disposal as hazardous wastes.

MOE claims that Ontario's waste management regulation is now consistent with the current rules set by the U.S. EPA. This is true only for the classification and identification of hazardous waste, not for its treatment. When first announcing the proposed amendments, the minister of the day stated that one reason for the ministry's initiative was to deal with increasing public concern about rising imports of hazardous wastes to Ontario. When the decision was announced, the new minister similarly said that the restrictions should provide "less incentive" to American companies looking to dump industrial waste. But this ignores the fact that disposal of hazardous waste remains much cheaper in Ontario than in the U.S. This is because wastes that can be buried untreated in Ontario would have to be incinerated or otherwise treated to reduce contamination before they could be buried in the U.S., and because the Canadian dollar remains much weaker than the American dollar. MOE adopted U.S. exemptions to the hazardous waste classification rules without also adopting the protective measures in the U.S. EPA rules, such as thresholds for contamination, requirements for public consultation and other conditions. Had MOE's changes to the classification of hazardous wastes been accompanied by the stronger U.S. standards for their disposal, the improvement to environmental protection in Ontario would have been much greater.

MOE still needs to address the larger issues raised during the public consultation on this proposal: diminishing capacity to treat and dispose of hazardous waste in Ontario; ongoing concerns with the Safety-Kleen facility; and the need to ensure that the new rules are compatible with other goals such as cleanup of contaminated sites. MOE also still needs to focus more attention on encouraging pollution prevention. Avoiding the creation of hazardous waste is far preferable to even the most sophisticated treatment regimes. It is commonly believed that introduction of the stringent and expensive disposal restrictions and treatment standards in the United States forced industries to dramatically reduce their generation of hazardous wastes. Some observers say that the weak rules in Ontario allow U.S. generators to evade the tighter standards in the U.S., to the detriment of Ontario's environment and U.S efforts to reduce hazardous waste generation. The ECO encourages the ministry to continue to review the need for tighter standards for the management and disposal of hazardous wastes.

Review of Posted Decision:
Proposal to adopt Canada-wide Standards for Mercury

Decision Information:

Registry Number: PA9E0013		Comment Period: 60
Proposal Posted: December 1, 1999		Number of Comments: 3
Decision Posted: October 12, 2000		Policy Implemented: June 6, 2000

Description:
Mercury is a persistent toxic substance, which is responsible for a large number of Ontario's fish consumption restrictions. Due to its persistence, mercury levels in fish and wildlife have not yet declined despite a substantial reduction in mercury emissions since the 1970s. In October 2000, MOE posted a decision notice stating that it intended to implement the Canada-wide Standards (CWS) in Ontario for significant mercury emitting sectors and for selected products containing mercury. The CWS include not only numerical targets, but also timelines and reporting protocols. The CWS for mercury address two major sources of mercury emissions: base metal smelting and waste incineration, but do not address the third major source, coal-fired power plants, which contribute approximately 20 per cent of Ontario's annual mercury emissions. The CWS for mercury were ratified by the Canadian Council of Ministers of the Environment (CCME) on June 6, 2000.

The CCME has been developing Canada-wide Standards for certain contaminants in order to ensure that "environmental quality and human health" across Canada is consistent with the vision and principles of the Canada-wide Accord on Environmental Harmonization. The CWS are being developed by federal, provincial, and territorial governments, with input and consideration from stakeholders such as environmental, health, industrial, and aboriginal groups.

The largest source of mercury emissions in Canada is base metal smelting. Canada's major zinc, copper and lead smelters have made many changes in the past 13 years to reduce emissions by more than 90 per cent. MOE believes that the CWS for mercury can achieve an even higher success rate by enforcing the "best available techniques" at all smelters plants to meet the standards.

The CWS also address mercury released by the incineration of sludge and medical, hazardous and municipal waste. There has been a 60 per cent improvement of mercury emissions from incinerators since 1990 by changing the process, treatment technology and waste content. The new CWS for allowable emissions of mercury are intended to reduce emissions from incineration by a further 70 per cent by 2006.

The new CWS for mercury also lays out a reporting schedule, and expects jurisdictions to report on progress in 2004, 2007 and 2010. For each of these years, a single public report is to be prepared and posted on the CCME web site for public access. The 2010 report will include an evaluation of these standards and a recommendation on whether changes should be considered. The reporting schedule does not describe any planned public consultation.

Implications of the Decision:

-for copper, zinc and lead smelters

Base metal smelters are major contributers to Ontario's mercury emissions. The base metal smelting industry is also the single largest mercury source Canada-wide, emitting 2.8 tonnes in the year 2000. The new CWS for mercury are not likely to result in any quick emission reductions from this sector, partly because they do not come into effect for existing smelters until the year 2008, and also because they are written as guidelines, open to considerable interpretation. More specifically, existing smelters are expected to make a "determined effort" by the year 2008 to achieve an emission guideline of 2 grams of mercury per tonne of finished metal. What constitutes a "determined effort" will be up to individual jurisdictions to decide, but CCME has stated that smelting operations are expected to look for opportunities for best available pollution prevention and control techniques that are technically and economically achievable. Neither the CCME documents nor MOE's decision notice provide information on typical current emission rates from the smelting sector, or on how much of a reduction the 2008 emission guideline constitutes, compared to current rates.

New and expanding smelters are expected to meet tighter guidelines immediately under the CWS for mercury, but since this is a mature industry, there are likely to be few or no facilities affected. For new or expanding facilities, the guideline is 0.2 g mercury (Hg)/tonne production of finished zinc, nickel and lead, and 1 g Hg/tonne of finished copper. It also requires consideration of the mercury offset program to ensure no "net" emission increases occur. Nickel smelters are not affected by the new mercury standards because nickel ores contain very little mercury.

-for incinerators

Incineration currently accounts for an estimated 600 kg/year of mercury emissions in Ontario, or about 23 per cent of the province's total emissions. The new CWS for mercury may help cut emissions from Ontario incinerators, but the standards are unlikely to have any real effect before 2006 for the following reasons:

1. The new CWS for mercury apply immediately to new incinerators. Since there are no new incinerators currently planned in Ontario, this part of the new standard has no immediate environmental impact.

- Expanding incinerators are also immediately affected, but CCME decided it would be up to individual jurisdictions to determine what size of expansion should trigger the new standard. In Ontario, an expansion is currently being proposed at the province's only commercial hazardous waste incinerator. A Registry proposal posted in December 2000 indicates that the facility is requesting approval to incinerate more waste, but the company takes the position that this increase in waste incineration should not be considered a facility expansion for the purposes of the CWS. MOE has not made public its position on whether this proposal is to be considered an expansion that triggers the new CWS.

- Existing medical and municipal waste incinerators are to meet the new standards by 2006. Existing hazardous waste incinerators are expected to meet the new standards by 2003, (and sewage sludge incinerators by 2005), ,but there is a complication that will delay implementation. CCME members have also agreed that in Ontario, implementation of the mercury standards for existing incineration facilities will include a consolidation with the dioxin and furan Canada-Wide Standards, and with actions necessary to address local and regional issues including particulates and other smog precursors. Since Canada-Wide Standards for dioxins and furans are still at a proposal stage, with a suggested effective date of 2006, real reductions in mercury emissions from existing incinerators are not expected in Ontario until 2006.

Mercury is a serious environmental problem for several reasons. Among these are mercury's ability to persist in the environment for a long period of time and its ability to bioaccumulate in aquatic food chains to the point that consumption of fish can become hazardous to birds, mammals, and humans. Mercury is a neurotoxin that affects the central nervous system and can cause brain damage in young children and fetuses. Low doses can impair learning, cognitive abilities, vision and muscle coordination, especially in young children and fetuses. Mercury contamination is responsible for 20-40 per cent of the consumption restrictions placed on fish in Ontario's Great Lakes and 99 per cent of all consumption restrictions placed on fish in Ontario's inland lakes. Due to the risks, there have been special consumption advisories in place for Ontario women of childbearing age and children under the age of 15. High mercury levels in fish have resulted in fish consumption advisories in eight provinces.

Public Participation & *EBR* Process:
MOE provided a 60-day comment period on the proposal to adopt this new CWS on mercury, and received three comments. The ministry provided a summary of the comments as part of the decision posting, and responded to the concerns.

The three comments came from very different perspectives. One suggested banning all incineration, with a focus on controlling coal-fired power plants. MOE responded that coal-fired plants were not the focus of the posting and that closure of some incinerators in order to comply with the standard might be possible, but that many incinerators would be able to comply.

The second comment was supportive of MOE's consultation process on CWS, but requested clarification of linkages between the CWS work and MOE's standards development process.

The third comment (which was submitted by a company that operates a major commercial hazardous waste incinerator) suggested that the time provided for hazardous wastes incinerators to meet the CWS was insufficient, and requested that the compliance date be extended from 2003 to 2006. The company noted that the proposed new emission standard represented a reduction of about 94 per cent compared to their incinerator's most recent stack test data. The company also stated that annual stack testing to verify compliance would be unnecessary and onerous. The company also requested that the definition of "expanded facility" should include only increases in the design capacity of facilities – not increases in throughput of hazardous waste. MOE responded that through a combination of pollution prevention controls and process controls, compliance with the CWS was possible, but did not indicate whether compliance was expected by 2003 or 2006.

MOE also stated that facility-specific concerns will be addressed through implementation of the CWS in Ontario. Specific proposals for instruments such as revised Certificates of Approval or regulatory changes will be posted to the *EBR* Registry for public comment on a case-by-case basis.

Statement of Environmental Values:
MOE provided a few paragraphs explaining the role of its SEV in the considerations relating to standard-setting generally.

MOE's SEV is intended to protect the ecosystem, air, ground water, surface water, drinking water, sediment, and biota. MOE noted in its SEV consideration document that it exercises a precautionary approach in its decision-making. When there is uncertainty about the risk produced by a particular pollutant, the ministry will exercise caution in favour of the environment.

Other Information:
Information on Canada-wide Standards, including the decision on Canada-wide Standards for mercury, is available on the CCME Website at http://www.ccme.ca under "What's New." MOE also provides some additional information concerning the release of mercury into the environment on its Website: <http://www.ene.gov.on.ca>.

MOE also posted a related decision on the Canada-wide Standards for Waste Dental Amalgam and Flourescent Lamps that deals with two mercury-containing products which result in environmental emission of mercury at some stage in their life-cycle. The CWS for waste dental amalgam requires dentists to install equipment that will prevent 95 per cent or more of the waste amalgam from being discharged to municipal sewer systems or residential septic tanks. The second standard deals with the reduction of mercury content in flourescent lighting tubes and better waste management of used tubes.

ECO Comment:
The new CWS for mercury will not result in any quick improvements to mercury emissions. Mercury was selected as one of the first candidates for the Canada-Wide Standards setting process because of its persistence, its certain toxicity to wildlife, and its known risks to human health. The resulting CWS for mercury applies to smelters and incinerators, and according to CCME, is expected to achieve emission reductions estimated at between 50 per cent and 99 per

cent, depending on the facility. However, these reductions will not be in effect until 2006 for incinerators and 2008 for smelters. Moreover, the CWS are not legally enforceable and contain very vague language: incinerators "will endeavour to meet the standards" and smelters are "expected to make a determined effort to meet" standards. Ontarians cannot expect an update on progress of this initiative until 2007 (since the 2004 report will pre-date any reduction requirements), and changes to the CWS will not be considered until 2010.

There are currently no mercury emission reductions required of Ontario's third major mercury emitting sector – coal-fired power plants. CWS for mercury for this sector are still in development, with a proposed completion date of 2002. It appears that CCME members are contemplating that these new mercury limits would come into effect by 2010. Although mercury emissions from coal-fired power plants owned by Ontario Power Generation (OPG) represent 20 per cent of Ontario's total emissions, the corporation has not announced any voluntary mercury emission reduction targets. On the contrary, one environmental group has forecast that, based on projections of future coal-burning, OPG's emissions of mercury may rise by up to 16 per cent between 2000 and 2012.

The new CWS for mercury may be able to deliver some slow, modest improvements in mercury loadings to Ontario's environment over the next decade. But MOE acknowledges that earlier, more dramatic reductions have failed to achieve notable declines in mercury contamination levels of fish and wildlife. This should be a serious concern to MOE and other agencies with environmental stewardship responsibilities, and ought to be treated as a warning not to rely solely on the slow roll-out of the CWS for mercury. At a minimum, ECO sees a need for careful monitoring and clear public reporting of mercury's impacts on Ontario ecosystems, including impacts on higher trophic levels, vulnerable species and sensitive ecosystem functions. An accurate, comprehensive inventory of mercury loadings to Ontario's environment should also become a regular component of Ontario's annual air quality reports. Finally, MOE should identify and consult the public on further mercury reduction options, above and beyond the CWS.

Review of Posted Decision:
Proposal to adopt Canada-Wide Standards for Particulate Matter and Ozone

Decision Information:

Registry Number: PA9E0015 Comment Period: 60 days
Proposal Posted:December 1st, 1999 Number of Comments:13
Decision Posted: October 12, 2000

Description:

The MOE has agreed to adopt the Canada-wide Standards for Particulate Matter and Ozone. These standards were ratified by the Canadian Council of Ministers of the Environment (CCME) on June 6, 2000.

CCME considered two air pollutants together in the development of this standard, because they are both key ingredients in urban smog. Fine particulate matter smaller than 2.5 microns (PM2.5) and ground level ozone are both linked to serious human health impacts, including chronic bronchitis, asthma and premature deaths. It is also well established that PM2.5 is a problem throughout all seasons and in all regions of the country, while high levels of ozone impact more than half of all Canadians during summer months.

Implications of the Decision:

Background on Canada-wide Standards

For the last several years, CCME has shifted its focus away from the development of air quality *objectives*, in favour of developing Canada Wide Standards (CWS) for certain contaminants where "concerted, consistent and timely national action is required." CWS provide not only a numerical target that should ideally be met, but also agreed-upon deadlines and plans for meeting that target across the country. CWS are intended to be achievable targets, based on sound science. Socio-economic and technical factors must also be considered in their development. The development of CWSs should also involve greater public participation than was the norm for air quality objectives.

Governments are expected to demonstrate a commitment to attaining the CWS. Components include a timeframe for achieving the CWS, an initial set of actions by each jurisdiction to achieve the CWS, and also a reporting protocol to track progress. However, the ratifying jurisdictions (i.e., the federal government, the provinces and the territories) have a great deal of discretion in how they carry out their roles. Each jurisdiction may set its own unique measures for documenting and reporting on progress and may design its own public consultation process (aside from any national consultations). CWSs do not themselves have any legal force.

In January 1998, CCME ministers agreed to deliver six CWSs, consistent with the Canada-wide Accord on Environmental Harmonization. Particulate matter and ozone were two of the six contaminants assigned a high priority by CCME.

CWS for Particulate Matter and Ozone

In June 2000, CCME ministers, including Ontario, agreed that the CWS for PM2.5 will be 30 micrograms per cubic metre of air, averaged over 24 hours. The agreed-upon CWS for ground-level ozone will be 65 parts per billion, averaged over eight hours. The target date for achieving both standards is the year 2010.

The agreement included a special clause for Ontario, stating that if Ontario met its long-standing target of a 45 per cent reduction of NOx and VOC emissions (from 1990 levels) by the year 2010 (five years faster than the original target year of 2015), then that would be considered Ontario's "appropriate level of effort towards achieving the ozone CWS." NOx and VOC are emitted from a wide range of transportation and industrial sources and combine in the presence of sunlight to form ground-level ozone. Any remaining ambient ozone levels above the CWS in Ontario would be considered attributable to pollution blown in from the U.S. Ontario stipulated that it would agree to speed up its smog reduction target date by five years only on the condition that the federal government successfully negotiate "equivalent reductions" with the U.S. government during the fall of 2000. This stipulation was included in the decision notice that MOE posted on the Registry on October 12, 2000. However, on the same day, MOE also issued a news release roundly condemning the federal government for failing to demand any new reductions of smog-causing emissions from the U.S. at the Canada/U.S. Ozone Annex negotiations in Washington. It now appears that MOE does not intend to speed up its smog reduction plans by five years.

While none of the Canada-wide Standards are legally enforceable, the CWSs for PM2.5 and ozone also include a special escape clause, allowing any CCME member to withdraw from the agreement upon three months notice.

Agreements on Initial Actions

CCME ministers also agreed, as part of the CWS for particulate matter and ozone, to a set of initial actions to reduce these pollutants. These initial actions are all to be completed by the year 2005, and include:

- -providing more thorough and timely air quality information
- -measures to control tampering with vehicle emission control systems
- -reporting on existing "clean commute" programs
- -reporting on the progress of programs like Drive Clean
- -measures to control emissions from residential wood furnaces
- -developing multi-pollutant emission reduction strategies for six major industry sectors: pulp and paper; lumber and allied wood products; electric power; iron and steel; base metals smelting; and concrete and asphalt

-developing options for dust control by the construction/demolition sector
-assembling a model Green Power program
-coordinating science and research on particulates and ozone

A lead jurisdiction will be identified (presumably by CCME) for each of these actions, to act as the "champion" and national coordinator. The process assumes that other ratifying jurisdictions will participate in each of the "initial actions," along with interested industry sectors and other stakeholders. Completing all these "initial actions" by the year 2005 would be an impressive accomplishment, but start-up seems to be slow. It appears that specific delivery dates and lead jurisdictions for each of the "initial actions" have yet to be established.

Agreements on Reporting and Measuring

The CWS on PM2.5 and ozone includes a commitment to report progress to ministers and the public at five-year intervals, beginning in 2006. Beginning in the year 2011, it is contemplated that each jurisdiction will complete annual standardized "report cards" on achievement of the CWSs. But governments have not made any commitments to report on their progress before the year 2006.

The development of these CWS included much discussion on how best to measure and express the new targets. Drafters wanted a CWS that provided a strong surrogate for human exposure and acute health effects, that could provide the public with a meaningful daily benchmark, and that would not be overly influenced by extreme peak values.

As noted above, the MOE agreed to adopt – with conditions – a CWS for PM2.5 of 30 micrograms per cubic metre of air, averaged over 24 hours. Achievement will be based on the 98th percentile ambient measurement annually, averaged over three consecutive years. This means that the most extreme peaks measured (the top 2 per cent) will not be considered in measuring achievement. The agreed-upon CWS for ground-level ozone will be 65 parts per billion, averaged over eight hours. Achievement will be based on the 4th highest measurement annually, averaged over three consecutive years.

Public Participation and EBR Process:
MOE provided a 60-day comment period on the proposal to adopt this new CWS on PM2.5 and ozone, and received 13 comments from a range of stakeholders, including several industry associations, two large municipalities and several environmental organizations. The ministry provided a good summary of the comments in its decision notice, and also responded to some of the concerns raised. In their comments, industry associations raised concerns about uncertainties and gaps in the underlying science, the need for of a full cost-benefit analysis, the achievability of the standards and the heavy burden on Ontario to improve its air quality, while handicapped by transboundary emissions from the U.S. On the other hand, environmental organizations and municipalities were concerned that the new CWS for ozone is effectively weaker than the already

existing national objective; that no standard was developed for coarser particulates (between 2.5 and 10 microns in diameter); and that Ontario is free to use its own, unenforceable Anti-Smog Action Plan as a surrogate for meeting the CWS for ozone.

There had also been previous national consultation on the development of this CWS, through two workshops with invited participants in October 1998 and May 1999.

SEV:

MOE provided a few sentences listing some SEV considerations relating to standard-setting generally. But MOE did not describe how this particular decision was consistent with the ministry's SEV. MOE noted that it exercises a precautionary approach in its decision-making, and that, when faced with uncertainty about the risks presented by a particular pollutant, the ministry will exercise caution in favour of the environment. Since the new CWS for ozone is a more permissive numerical value than the existing national objective (despite MOE's recognition of evidence that there is no lower threshold for adverse health effects) it does not appear that this decision adhered to the precautionary principle, or that it was consistent with the ministry's SEV.

Other Information:

The federal government appears uncertain that Ontario's ratification of the CWSs for PM2.5 and ozone will result in needed air quality improvements. Federal-provincial relations on air quality issues have been strained, and seem to be deteriorating, exacerbated by pressure from U.S. states to clean up emissions from Ontario's coal-fired power plants. The Attorneys-General for New York State and Connecticut requested on January 31, 2001, that Environment Canada undertake an environmental assessment of the air pollution controls being proposed for these Ontario coal plants, asserting that they are inadequate. The federal Environment Minister, Dave Anderson, responded that he would consider this request, and agreed that Ontario's air pollution control plans didn't go far enough.

The federal government has also been laying legal groundwork to allow it to take a more hands-on role in controlling Ontario air pollution sources. In the summer of 2000, Environment Canada declared particulate matter smaller than 10 microns to be a toxic substance under the *Canadian Environmental Protection Act,* and proposed to treat other key smog precursor pollutants the same way, including sulphur dioxide, nitrogen oxides, volatile organic compounds and ammonia. This will mean that the federal government can develop action plans to deal with the reduction of these substances. More recently, on February 19, 2001, the federal government announced a $120 million smog-fighting plan, including negotiations with Ontario and other provinces to reduce emissions from power plants and other industrial sources. This is another indication that the federal government has concerns about the adequacy of Ontario's Anti-Smog Action Plan.

MOE also adopted the CWS for mercury in June 2000. In October 2000, when MOE posted decision notices for both of these new CWS, it also posted a proposal to adopt CWS for dioxins and furans. No decision notice for the CWS for dioxins and furans had been posted by April 2001.

ECO Comment:
Conceptually, Canada-wide Standards are a positive development and an improvement over national ambient air quality objectives. Canada-wide Standards have the advantage of setting not only a numerical value that should ideally be met, but also agreed-upon deadlines and action plans for meeting that target value across the country. They also establish measuring and reporting protocols for all signing parties, and their development involves more public participation than has been the case for ambient air quality objectives. Moreover, they should provide a more transparent process and a more traceable environmental outcome for Canadians.

New standards for ground level ozone and particulate matter have been badly needed, since abundant evidence has accumulated about their negative health and environmental effects. Unfortunately, the new CWSs for PM2.5 and ozone do not promise a clear, traceable outcome for Ontarians interested in air quality improvements. The federal-provincial negotiations resulted in Ontario's nominally ratifying the new standards, but effectively reverting to its existing Anti-Smog Action Plan, a plan which relies on voluntary measures, has been plagued by poor documentation and reporting, and has demonstrated very slow progress (See pages 65-71 of the annual report). It is not at all clear how an ambient air quality standard can be replaced by a province-wide emission reduction target. It is also not clear how CCME will track the progress of Ontario's Anti-Smog Action Plan, or how it will evaluate whether the goal has been reached. The issue is further clouded by uncertainty about Ontario's commitment either to meet the shorter deadline of 2010, or to participate in the list of "initial actions" which are a key feature of the new CWSs. The ECO will continue to monitor this issue.

Review of Posted Decision: Aquafarms 93 - *OWRA* s. 34 - Permit to Take Water

Decision Information:

Registry Number:	IA9E1112	Comment Period:	60 days
Proposal Posted:	September 20, 1999	Number of Comments:	11
Decision Posted:	January 11, 2001	Permit Issued:	Date Unknown

Description: Aquafarms 93 requested that MOE issue a new Permit to Take Water (PTTW) under Section 34 of the *Ontario Water Resources Act* (*OWRA*) so that it could continue take water for use in commercial water bottling from three boreholes and a spring near the town of Feversham, located in the Township of Osprey in Grey County. This PTTW consolidates two existing permits and increases water taking rates as follows:

SOURCE	MAXIMUM LITRES per MIN	MAXIMUM LITRES per DAY	MAXIMUM TAKING TIME
Borehole #2505887	909	1,309,248	24 hours/day, 365 days/year
Borehole #2505661	682	981,936	24 hours/day, 365 days/year
Borehole #2505709	682	981,936	24 hours/day, 365 days/year
Spring	182	174,566	16 hours/day, 365 days/year

Approval for this PTTW was granted and it was issued by MOE as permit 00-P-1365. It expires on December 15, 2002.

Implications of the Decision:

This permit is a renewal of a permit (99P1228) that was previously issued to Aquafarms 93 and expired on March 31, 1999. However, that permit was for the purpose of a fish farm rather than commercial water bottling. Whereas previously water had been treated and returned to the watershed, the water would now be taken from its source. The decision to issue the permit to remove water from the watershed raised issues of management of the watershed and water shortages for this agricultural community, which relies heavily on consistent water supplies. All of the comments received referred to concerns about decreasing water levels due to the numerous water takings in the area. The commenters were particularly concerned about the maximum daily quantity of water that Aquafarms 93 can extract – almost 3.5 million litres of water per day.

However, the permit does contain some precautionary provisions. If the taking of groundwater causes any negative impact on water supplies obtained from sources that were in use prior to the initial issuance of the permit, Aquafarms 93 must take any necessary action, including reducing its takings to alleviate the impact, to return the supply of water equivalent in quantity and quality to their normal takings to those affected, or compensate those affected for their costs to do so. During times of drought or water shortage, the MOE Director can suspend or reduce the taking. The latter condition was made in accordance with an interim, inter-ministry policy called "Ontario Water Response 2000," which has since been replaced by "Ontario Low Water

Response." In addition, the figures provided for the water taking are maximum levels, and it is not expected that Aquafarms 93 would take water at the maximum rate or take the maximum quantities every day.

The notices stated that the permit would allow water to be taken from three boreholes and one spring at lot 20, concession 13, in the Township of Osprey. However, the issue of the location of the water taking, whether it is from the deep bedrock or more shallow areas of the aquifer, was raised by the commenters. Some commenters pointed to discrepancies in the location as indicated by the hydrogeological report submitted in support of the PTTW application. It is the ECO's opinion that the location of the water taking is very important for planning, forecasting and ecosystem management purposes. Precise location descriptions of the boreholes themselves are also important for databases and mapping purposes and for the management of water in the area as a whole.

Public Participation & *EBR* Process:
This PTTW was posted on the Environmental Registry for 60 days and 11 comments were received. According to MOE, these comments were reviewed but found to have no direct impact on the ministry's decision whether or not to proceed with this proposal. The comments raised were concerned mainly with the enormous extraction levels proposed in the permit, given recent experiences with water shortages. Each questioned the sustainability of the aquifer and the water needs of local agricultural uses, and cited personal experiences regarding dried up wells and dropping water levels that had not been an issue in the past. However, MOE states that its hydrogeologist reviewed the comments and determined that the information produced by the applicant was sufficient to satisfy any concerns about the potential of this water taking to interfere with surrounding water resources.

The ECO believes that the information provided in the proposal notice was insufficient and did not give the public enough information to encourage informed comment. The proposal and decision notices did not indicate the length of the permit, the date it was issued, a specific contact person for comments, or the source of water. The date the permit was issued would have been of particular interest to the public, since the decision notice was loaded on the Registry 16 months after the proposal notice. There were also differences between the notices and the permits with respect to the maximum daily water quantity that could be extracted by the permit holder. Although these differences were small, this discrepancy is an easily avoidable error. It would also have been helpful if the taking rates in the permit had been converted to total quantities being taken on a daily, monthly and yearly basis so that commenters could get an idea about how much water would be taken in total. Finally, the decision notice had a hypertext link to a copy of the final permit.

It is the ECO's opinion that deficiencies in the PTTW process in general also limit public participation. For example, since municipal permits are covered by the Municipal Class Environmental Assessment approval process, they escape the *EBR* public review process and are not posted on the Environmental Registry. Therefore, the public cannot rely on Registry information to provide an accurate overview of water taking trends in a particular region or over a specified period of time. This makes water quality and quantity in any given area difficult to monitor.

SEV:

It is the policy of MOE *not* to consider its SEV in deciding to issue instruments. MOE has offered two explanations for its decision. First, in an August 1995 discussion paper on the use of its SEV, MOE stated: "issuing, review, repeal or amendment of instruments is guided by policies, Acts, or regulations." It maintained that since the SEV is considered in the development of these policies, Acts and regulations, considering it again for the granting of instruments is not necessary. Second, in its 1996 annual report to the ECO, MOE states that SEV consideration is not required for instrument proposals because MOE already considered the SEV when it developed its classification regulation for instruments.

It is the position of the ECO that this policy is at odds with the intent of the *EBR* ,as the *EBR* provides no exclusions from the SEV consideration requirement for environmentally significant instrument decisions. The ECO believes that MOE should explicitly subject all of its environmentally significant instrument decisions to SEV consideration.

Other Information:

According to one commenter, this PTTW application was the subject of strong local protest and a stalled OMB hearing when the County Planning Departments refused to accept the Site Plan as constructed by the proponents. The Township of Osprey, where this PTTW applies, was also part of a regional groundwater monitoring study to determine sustainable withdrawal rates. The "AEMOT" (the townships in the study: Artemesia, Euphrasia, Melancthon, Osprey, and the Town of Blue Mountains) Groundwater Management Study committee began in 1999 and grew from a community concern for increased demands on groundwater supplies in the area. A Groundwater Management Plan was undertaken to gain an understanding of the physical, hydrological, hydrogeological and ecological systems of all of the watersheds within the region. Commenters were upset that the PTTW for Aquafarms 93 was granted before the AEMOT study was completed.

In addition, on April 30, 1999, the Water Taking and Transferring Regulation (O. Reg. 285/99) was enacted. It provides criteria for MOE staff to consider before issuing a permit. They must give precedence to the impact that the permit would have on natural functions of the ecosystem, and they have discretion to consider the impact on uses for livestock, municipal sewage and water supply, agriculture and domestic wells to assess whether it is in the public interest. However, it is not clear that MOE staff have adequate guidance to apply the conservation-based regulation as they should.

ECO Comment:

The PTTW process, and the management of water quality and quantity in general, has become a particularly important concern in Ontario since the drinking water contamination at Walkerton in

2000 and the subsequent Walkerton Inquiry. In January 2001, the ECO compiled its previous research done for the 1999/2000 reporting year of MOE's administration of the Permit to Take Water Program as a brief to the Walkerton Inquiry. The ECO examined the permit applications and decisions that were posted on the Environmental Registry between May 1, 1999, and November 20, 2000. This study is outlined in a report entitled *Ontario's Permit to Take Water Program and the Protection of Ontario's Water Resources - Brief to the Walkerton Inquiry*. It can be obtained from the ECO directly or from the ECO website at: www.eco.on.ca/english/publicat/walker01.pdf.

Many of the weaknesses in the Proposal and Decision Notices described in that report were also present in this notice. These must be addressed by MOE in order to comply with its responsibilities under its SEV and the *EBR*. The following common deficiencies mentioned in the ECO report were also evident in the proposal and decision notices for the Aquafarms 93 permit:

- The length of the permit was not indicated.
- The date the permit was issued was not indicated.
- The notices and the permit gave different figures for the maximum quantity of water that could be extracted by the permit holder by the minute and daily.
- The flow rates allowed in the permit were not converted to total quantities being sought daily, monthly and yearly.
- The notices lacked a contact person, although a title and address of an MOE staff person to whom comments could be directed was given.

The granting of a PTTW raises many issues for an area's watershed, including the impact of the new taking on other users of the watershed and on the levels and quality of the watershed itself. It is the ECO's opinion that MOE must be particularly careful in issuing a PTTW and in posting its decision notice on the Registry. Public accountability and transparency may be threatened by inaccuracies and omissions in the Registry notices. Ecosystem protection may be threatened when MOE staff issue permits for new water takings without access to complete and accurate information on existing water takings. Careful consideration of permit applications and permit postings can reduce these risks and safeguard groundwater supplies for future generations.

Review of Posted Decision: O. Reg. 227/00
MOE's Regulation Requiring Emission Reporting from Electricity Generators

Decision Information:

Registry Number:	RA00E0003	O. Reg. 227/00 Filed: April 14, 2000
Proposal Posted:	January 24, 2000	O. Reg. 227/00 Gazetted: April 29, 2000
Decision Posted:	April 19, 2000	O. Reg. 227/00 in effect: May 1, 2000
Comment Period:	30 days	**Revoked**: May 1, 2001, by O. Reg. 127/01
Number of Comments: 16		

Description:

Through this regulation, MOE introduced new rules requiring the electricity sector to monitor and report its air emissions. O. Reg. 227/00, under the *Environmental Protection Act*, set out requirements for electricity generators to monitor and report to MOE information about their electricity production and emissions of 28 substances. The substances to be monitored included sulphur dioxide (SO_2), oxides of nitrogen (NO_x), carbon dioxide (CO_2) and particulates (including PM_{10} and $PM_{2.5}$), which all contribute to smog, acid rain and climate change. Other substances included volatile organic contaminants and mercury, a toxic contaminant of concern from coal-fired electricity generation.

This regulation was in effect only between May 1, 2000, and May 1, 2001, when it was revoked and replaced by O. Reg. 127/01. O. Reg. 127/01 requires monitoring and reporting of 358 substances by all industrial sectors, including the electricity generation sector. It will be fully reviewed by the ECO in our 2001/2002 annual report. For this report, only those aspects of O. Reg. 127/01 which change the requirements set out for the electricity sector in O. Reg. 227/00 will be addressed.

The electricity sector regulation did not apply to a generation facility if: it had a "nameplate capacity"(meaning the maximum energy output of the combustion equipment) of 1 megawatt (MW) or less, or if 10 per cent or less of the electricity is sold to the market. All electricity generators captured by the regulation were required to keep records containing information about the facility, their electricity generation and emissions, to be kept on site for a period of seven years and available to the ministry on request. Generators also had to submit reports containing a subset of the information collected and make the reports available to the public. Annual reports due by June 1 of each year would report how much electricity they produced during the previous calendar year and during the smog season, May 1 to September 30. The annual reports were to describe the type of equipment used, the energy source, and the fuels used to produce the electricity. If a generator's estimation of the facility's emissions showed that the total amount of any contaminant exceeded the reporting threshold, the generator was also to report its emissions for each contaminant for both the calendar year and smog season.

MOE described several different methodologies for estimating a facility's emissions, including continuous emission monitors (CEMs), predictive monitoring (PEM), stack sampling, fuel analysis, emission factors and emission estimation models. MOE said that "in general, site-specific data representative of normal operations at that site are preferred over industry-average data (such as emission factors)." However, apart from the requirement for CEMs for certain facilities, described below, MOE allowed generators to choose any of these methods for estimating their emissions.

O. Reg. 227/00 required generators with a nameplate capacity over 25 MW that could be reasonably expected to emit NO_x or SO_2 above the reporting thresholds to install CEMs and to submit quarterly reports to the ministry. These reports would also be available to the public. Facilities without CEMs already installed were given one year, until May 1, 2001, to install the equipment. O. Reg. 127/01, which took effect May 1, 2001 introduced a major change to these requirements. Responding to industry concerns about the cost and regulatory burden of installing CEMs, MOE retreated from the requirement for continuous emission monitoring and would instead allow a variety of emission estimation methodologies to be used for quarterly reporting.

The first quarterly reports from the electricity generators were due on November 30, 2000, and the first annual reports, including information on the 2000 smog season, were due on June 1, 2001.

Implications of the Decision:
According to MOE, when implemented, "the regulation would provide emission reductions, since public right-to-know will be an incentive for companies to reduce emissions." The ECO believes there is a potential for this to occur, but it is not a direct or certain outcome of the regulation. MOE also said the regulation would provide information for consumers who want to buy environmentally friendly electricity. This is contingent on the Ministry of Energy, Science and Technology's developing its consumer-choice program, and on how the information will be collected and provided to the public. MEST staff have said that this program has proven extremely difficult to design, and may not include emissions information.

The ministry also said it intends to use the information collected to track progress in air programs such as the Anti-Smog Action Plan, Post-2000 Acid Rain Strategy, Climate Change, and Air Toxics. The data will also be used to help implement the proposed new emission caps and emission trading system and to assist future policy development.

The Regulatory Impact Statement (RIS) included in the proposal notice said the proposed program would help the ministry prioritize initiatives to reduce the health and environmental impacts of air pollution. The RIS also estimated the costs to industry as ranging from \$3,000 to \$40,000 per facility for the first year, dropping to \$1,500 to \$2,500 for following years. Industry said the ministry seriously underestimated the costs. Industry estimated the costs of CEMs could range from \$100,000 to \$300,000 per stack, and that a facility could have several stacks.

MOE also said, when it posted the proposal in January 2000, that the reporting requirements would be integrated with the NPRI requirements as much as possible to minimize the burden on the ministry and industry. All commenters pointed out this would be very difficult because the reporting systems are fundamentally different. In its decision notice on O. Reg. 127/01, MOE said it had initiated a three-year pilot project with Environment Canada to work toward further integrating the emission reporting programs.

The actual effect of the regulation was a year of confusion for industry, and delayed implementation. The electricity generation sector was supposed to start monitoring emissions May 1, 2000, and the first quarterly reports were due on November 30, 2000. Many companies did not install the required CEMs because, as a result of further consultations between industry and the ministry, they knew the requirement was going to be revoked. Only a few facilities with existing CEMs submitted the first quarterly reports. Annual reports from all generators covering the period between May 1 and December 30, 2000, were supposed to be submitted in June 2001. As of the end of March 2001, the ministry had not yet completed the annual reporting forms, so industry hadn't started preparing the annual reports at that time. As previously described, the ministry has now revoked the requirement to report on the 2000 calendar year or smog season.

Public Participation & *EBR* Process:
The proposal notice was posted on the Registry in January 2000, with a 30-day comment period. The ministry also hosted a workshop, but it was held February 23, the last day to submit comments. Many stakeholders waited so they could benefit from the workshop, but that created a difficult situation in which to write and submit comments. Sixteen comments were submitted to the ministry during the comment period, from industry, environmental non-government agencies and other government agencies. For the most part environmental groups and other government agencies supported the concept of mandatory emission reporting, although they had many suggestions for improvement, such as lower reporting thresholds.

Most electricity generators and industry associations were concerned about the costs of complying with the requirements, especially to install CEMs. They also raised concerns about the timing, the complexity of the reporting regime, and inconsistency with other reporting requirements such as the National Pollutant Release Inventory (NPRI) and individual certificates of approval.

The ministry provided a very poor description of the effects of public comments on the decision. The decision notice did not actually describe any comments; it simply listed nine "areas where comments were received," including such unilluminating categories as "continuous emission monitors," "reporting issues" and "miscellaneous." The ministry listed a few of the changes it made to the proposal, but not all, and did not explain the importance of some of the changes.

Almost all the changes eased the monitoring and reporting requirements, although the ministry also lowered the reporting thresholds for two contaminants, as suggested by an environmental group. MOE exempted generators who sell less than 10 per cent of the electricity they generate to the market, as requested by industries such as the chemical producers, whose members have large co-generation facilities; and simplified the program to allow reporting on a facility-wide basis, instead of reporting on emissions from every point, area and process.

The comment period was far too short for such a complex regulation. The ministry knew that the electricity generators would have to implement this regulation and then be subject to different requirements just a few months later. After O. Reg. 227/00 was finalized, the ministry again held meetings with stakeholders and set up a working group to resolve some issues during development of the broader regulation. Through that process the electricity generators were able to negotiate further changes with MOE. For example, the draft of the new regulation reflected the consensus achieved in the ministry/industry working group that CEM would not be mandatory, but would be one of several options provided. Industries participating in the stakeholder working group were told not to implement O. Reg 227/00 because the new regulation would be in place before they would have been required to install CEMs.

By March 2001, the ministry had not yet finalized important aspects of the electricity sector monitoring and reporting program, such as the reporting format, and industry still had many unanswered questions about implementation details. Many of these issues should have been worked out before finalizing the regulation.

SEV:

The ministry said the reporting program was consistent with its environmental protection principle because it would encourage emission reductions, and would help to improve tracking of progress of the abatement programs (smog, acid rain, air toxics, climate change). The ministry concluded the proposal was consistent with its ecosystem approach since, for some contaminants, 85 per cent of the water pollution to the Great Lakes watershed is attributable to air pollution; and because air pollution affects the health of humans, vegetation and animals. The ministry said the program was consistent with its resource conservation principle because it would "promote the production of cost effective clean energy through the use of market forces. It supports the MEST's consumer disclosure program and promotes the reduction of toxic emissions in a cost effective manner."

The ECO observes that while the program may indirectly result in environmental improvement, the regulation does not require emission reductions. MOE should also not claim that the program will achieve resource conservation as promoted in its SEV. MOE assumes that market forces and consumer choice will result in production of cost-effective clean energy, but that has not yet been demonstrated. And it is still not clear how this reporting information will be used in the consumer choice program.

Other Information:

At the same time it posted the proposal for this regulation, MOE also posted a proposal for regulations setting emission limits and a trading system for the electricity sector (RA00E004). In March 2001, the ministry posted a revised proposal for emission limits and a discussion paper on the trading system for further public consultation.

ECO Comment:
In the 1998 annual report, the ECO recommended creation of an emissions inventory for all electricity generators. The ECO commends MOE for fulfilling that recommendation, although there will be some gaps in the database, for example, large co-generation facilities where industries produce energy they use themselves. The program is greatly needed as support for emission reduction programs. Environmental groups and other government agencies also strongly support the establishment of mandatory reporting for air pollutants and greenhouse gas emissions. Some pollutants, such as particulates, PM_{10}, and $PM_{2.5}$, have not been well-inventoried in the past, so these reports may provide important baseline information to help design emission reduction programs. They will also be important for measuring progress toward emission reduction goals in the Canada-U.S. Ozone Annex, new CWS standards for ozone, particulates and mercury, and Ontario's proposed emission cap and trade system.

The ECO also concurs with the comment from a member of the public that concluded with ". . . remember the point is to get cleaner air." Monitoring and reporting can become costly ends in themselves, and do not necessarily result in emission reductions. The ministry must use the information in programs that do require emission reductions. If the environmental benefit of the program is expected to come from the pressure applied by public scrutiny, then the ministry must ensure the public, including electricity consumers, can really access and understand the data.

In 1998 the ECO also recommended that MOE analyze the data on emissions from electricity generators to determine air pollution trends and release an annual report based on its analysis. MOE does not appear to be implementing that recommendation, and has been vague about how it will use the information. The ministry is requiring only that each facility make its reports available to the public upon request. In order to use the reports, the public would have to request them from each facility and then analyze or collate the information. Since facilities all have to submit reports to MOE, the ministry should make them available to the public at a central location, and should analyze and summarize the data in a public annual report. The ministry should also explain how it will carry out inspections, verify data and enforce the reporting requirements.

The ministry should have designed the monitoring and reporting framework to ensure consistent, comparable measures of emissions. The approach MOE has taken – to allow each facility to choose a different methodology to estimate their emissions – may result in incompatible and uncomparable data. MOE also needs to reconcile the reporting format under this regulation with the NPRI format. The ECO has noted serious problems with the reporting of emission reductions against targets under the Ontario's Anti-Smog Action Plan (see page 65-71of the annual report), and increasing delays in the publishing of Ontario-wide Air Quality Reports. These reporting and transparency problems undermine public confidence in MOE.

Public consultation on this regulation was inadequate, and the ministry appeared to rush to finalize the regulation before important issues had been resolved. The 30-day comment period was too short, and the ministry held its workshop on the last day of the comment period. As requested by stakeholders, the ministry should have reposted the draft regulation for public comment, given the significant but unanswered questions raised at the workshop and in the comments. Almost a year after the regulation took effect, industry was still uncertain about how to implement the requirements, and the ministry had not yet finalized the reporting forms or worked out other important details.

Review of Posted Decision:
Proposal to Adopt the Canadian Drinking Water Quality Guideline for Radiological Characteristics as an Ontario Drinking Water Objective for Radionuclides

Decision Information:

Registry Number:	PA9E0006	Comment Period:	60 days
Proposal Posted:	26-Aug-99	Number of Comments:	11
Decision Posted:	15-Aug-00	Policy Implemented:	unclear

Description:
This policy adopts the Canadian Drinking Water Guidelines for selected radionuclides as the Ontario Drinking Water Standards. The proposed exposure limit is derived from a 50-year committed effective dose of 0.1 millisievert (mSv) from one year's consumption of water. The purpose is to protect human health from the carcinogenic effects of exposure to radionuclides via drinking water. Although Ontario has Drinking Water Objectives (ODWOs) for cesium-137, iodine-131, radium-226 and strontium-90 and an interim Drinking Water Objective for tritium, there are no objectives for other radionuclides. Therefore, Ontario will adopt the national drinking water guidelines for Radiological Characteristics.

Implications of the Decision:
This decision adopts the Canadian Drinking Water Guidelines for Radionuclides as Ontario Drinking Water Standards. This decision revises the current ODWOs for four radionuclides, establishes new ODWOs for more than 70 other radionuclides, and finalizes the ODWO for tritium at a level of 7000 Bq/l, where tritium is the only radionuclide present.

It is a positive step that the Canadian guidelines were implemented as Ontario Drinking Water Standards and not objectives, as originally proposed. The standards were was part of the new Drinking Water Protection Regulation created under the *Water Resources Act* in August 2000, which puts the force of law behind the former ODWOs. The regulation includes clear steps that must be taken when the standards are not met.

It is not clear whether this decision will have any impacts on human health or other aspects of the environment such as other species and their ecosystems. Nor has the decision described the impact that such a limit would have on more vulnerable sectors of the population such as children and pregnant women. Furthermore, the standards do not consider a lifetime's exposure to these levels in drinking water, merely the effect of one year's exposure over a lifetime. There is no evidence that the broader health implications of the decision were considered.

The largest apparent health risk associated with the higher proposed radionuclides standard is referred to as the "Petkau effectPı" This effect refers to cell membrane damage caused by continuous, low-level exposure to beta emitters, such as tritium. A report conducted by the

Advisory Committee on Environmental Standards (ACES), which proposed a limit of 100 Bq/l, suggested that exposure to the current Canadian guideline of 7000 Bq/L represents a risk of approximately 340 fatal cancers per million people exposed over their entire lives. In addition, numerous other aquatic organisms, including fish, could be adversely affected by such a standard.

Public Participation & *EBR* Process:
The proposal had a 60-day public comment period. Eleven comments were submitted in response to the Registry notice. The decision notice did not summarize the comments or describe how they were taken into account. There was no indication as to what effect comments had on the decision to adopt the national guidelines, if they had any at all.

All of the comments were against the proposal except for one. The Ontario Ministry of Labour stated that it agreed with most aspects of the proposal but recommended that the screening level remain at 0.2 Bq/L for gross alpha activity and 2.0 Bq/L for gross beta activity rather than being reduced to 0.1 and 1.0 Bq/L respectively.

Some issues raised in the comments that were not addressed by MOE include:
- The Ontario Drinking Water Objectives (ODWOs) for radionuclides should be analogous to the level of protection provided by ODWOs for chemicals. At the moment, non-radioactive materials are placed under stricter limits than radioactive materials.
- There was significant opposition to the decision to adopt the MOE internal proposal as opposed to the earlier recommendations of the Advisory Committee on Environmental Standards (ACES), which advised reducing the limit to 20 Bq/L.
- The maximum acceptable concentrations (MACs) for radionuclides are based upon one year's consumption instead of lifetime exposure. The MOEE policy on Drinking Water Objectives states that lifelong exposure must be considered.

Commenters raised concern that the Guidelines might imply that releases of such substances to the environment are acceptable, provided that they are below Guideline levels. There is no rationale as to why radionuclides should be discharged to the environment at all, especially at a time when public concern over the safety of drinking water is at an all-time high.

Despite the majority of comments against the proposal, the MOE adopted the Canadian Drinking Water Guidelines as the Ontario Drinking Water Standard for radionuclides. The decision notice did not include replies to the negative comments received.

SEV:
The MOE considered its SEV in making the decision to adopt the Canadian drinking water guidelines. In their description, they state that the purpose of the Ontario Drinking Water Objectives is to protect public health. This statement is the first element of their SEV.

There is evidence that MOE considered the economic impacts of more stringent standards for tritium discharge to be significant in its decision to adopt the Canadian guidelines. An internal MOE report suggested that the costs of meeting a more stringent standard were prohibitive, and the increased health benefits associated with a tougher standard would be insignificant. The estimate for complying with a 20 Bq/l weekly average was $500 million in initial equipment redesign and possibly billions thereafter for maintenance, etc. MOE also estimated that out of the estimated 3 million people living near the nuclear plants. there would only be an additional 2.4 deaths during a 70-year period from fatal cancers associated with a yearly average tritium releases of 100 Bq/l. Today tritium concentrations measured at water supply plants around Darlington have gone as high as 25 Bq/L, but are typically in the range of 5-10 Bq/l. In the absence of further atmospheric detonations of nuclear weapons (the major source for radiation in drinking water), *chronic* tritium levels in drinking water are expected to remain below 100 Bq/L. One rationale for adopting a higher standard is that it allows for short-term spikes that have been shown to have no biological consequences.

MOE also considered the economic impact of imposing stricter screening levels for gross alpha and beta radioactivity. After considering the comments from the Ontario Ministry of Labour, they decided to maintain current levels. This is contrary to the Canadian Guideline, which recommends screening levels of 0.1 Bq/l for gross alpha radiation and 1 Bq/l for gross beta radiation.

The Canadian guidelines do take into account natural sources of radionuclides in their guideline limits. This is in line with the SEV for MOE, which requires the consideration of other media and sources.

Other Information:

MOE posted a related exception on April 5, 1995, to lower the Ontario Drinking Water Objective for tritium from 40,000 to 7,000 Bq/L. The decision to establish this objective received many applications for review in 1995 and a comment on this issue was included in the 1995 ECO Annual Report.

The Ontario government announced a new Drinking Water Protection Regulation as part of the *Water Resources Act* in August 2000. This converts the Ontario Drinking Water Objectives into Drinking Water Standards and gives them the force of law. It is hoped that this measure will improve the enforcement of drinking water quality in the province.

ECO Comment:

Description of the Decision

The decision notice is technical and difficult to understand. Many complex scientific terms were used and none of them were defined or explained. While it may be challenging to explain specialized words and phrases, MOE should use plain language so that the public can understand such a proposal.

The original intent was to adopt the national guidelines as *objectives*, but by the time the decision was made, the ministry's focus had shifted to adopting Ontario Drinking Water *standards*. This followed the announcement by MOE in August 2000 that it was creating drinking water standards under a new drinking water protection regulation (for a review of these regulations see pages 110112 of the Supplement). While the decision to implement standards is laudable, the language used in this decision posting was inconsistent. Some sections refer to Ontario Drinking Water *Objectives* while other sections use the term Ontario Drinking Water *Standards*. The decision notice should have included an explanation of the connection between this decision and the new Drinking Water Protection Regulation in order to clarify the reasons for the change in terminology. In the alternative, MOE could have made reference to the decision notice for the new Regulation.

MOE also failed to provide information related to key areas, such as:

- the health effects associated with radionuclides in drinking water;
- the sources of radionuclides, both natural and artificial;
- the names of the other 70 radionuclides for which the national guidelines will be adopted;
- the name of the contact person to whom the public submitted comments; and
- the date the policy became effective.

Access to Information
MOE provided an electronic link to background information on the Canadian Drinking Water Quality Guidelines. The fact that MOE is increasingly providing such links is a positive development because it saves residents a great deal of time in accessing more detailed information and facilitates public participation.

Description of Comments
The decision notice did not summarize the comments or describe whether they had an effect on the ministry's decision to adopt the national guidelines as Ontario Drinking Water Standards.

The *EBR* requires ministries to explain how public comments were taken into account in making a decision. MOE should have summarized each comment, stated whether the ministry made any changes as a result of the comments, and explained why or why not.

It is vital that Registry notices contain adequate detail and that the information that is provided is easy to understand. Without it, the public may not understand the environmental significance of a proposal, how their comments were taken into account, or the nature of the decision. The public requires this information to exercise their rights under the *EBR* and to participate effectively in the decision-making process.

Review of Posted Decision: Legislative amendments to consolidate the Environmental Assessment Board and the Environmental Appeal Board, and administrative amendments to the Environmental Assessment Act

Decision Information:

Registry Number:	AA00E0001	Comment Period: 30 days
Proposal Posted:	May 11, 2000	Number of Comments: N/A
Decision Posted:	Not Posted	Legislation In Force: December 6, 2000

Description:

On October 4, 2000, the government introduced Bill 119, the *Red Tape Reduction Act 2000*, into the Legislature for first reading. Prior to this, 15 ministries had contributed suggestions to promote the goals of good government through better management of ministries and agencies. The Ministry of the Environment (MOE) proposed the amendments in this posting. The Bill was passed as the *Red Tape Reduction Act (RTRA)* and received Royal Assent on December 6, 2000.

Schedule E to the *RTRA* contains general administrative amendments and specific amendments to the *Environmental Assessment Act (EAA)* that are intended to improve the efficiency of the Environmental Assessment process. The amendments also make changes to various procedures related to the Terms of Reference (TOR) document for an environmental assessment. They provide the Minister with the ability to amend and approve the document based on the results of stakeholder consultation and provide for public notice (through a Notice of Submission) and public comment and inspection opportunities. Other amendments allow the minister to review a decision of the Environmental Review Tribunal and make an order or give notice requiring a new hearing. Finally, the amendments clarify that the 28 days available for the minister to review a Tribunal decision after full hearing does not apply for a focused hearing. The Act also changes the references in several statutes from the Minister/Ministry of the Environment and Energy (MOEE) to the Minister/Ministry of the Environment (MOE). MOE states that the amendments to the *EAA* will provide clarity and consistency, improve service delivery, and provide for an administrative correction in the Act.

Schedule F to the *RTRA* contains the legislative amendments proposed by MOE to consolidate the Environmental Assessment Board and the Environmental Appeal Board. This Schedule creates the *Environmental Review Tribunal Act, 2000*, which formally amalgamates the boards into a single body. The boards were merged administratively in 1997 and already share their location, staff and members. The new legislation states that the Tribunal will be composed of not fewer than five persons appointed by the Lieutenant Governor in Council, none of whom may be public servants employed by the MOE, from which a chair and vice chairs are to be designated. The legislation deals with various procedural matters for the conduct of hearings, including giving the Tribunal the power to appoint experts to provide it with assistance, to enter and inspect any land or premises other than a dwelling at any reasonable time for purposes relevant to the subject matter of a hearing, and to award costs. The proposal also includes the necessary administrative amendments to other statutes to replace references to the boards with references to the new tribunal.

Implications of the Decision:

The *RTRA* was enacted to make certain bureaucratic procedures in Ontario easier, faster, and less expensive. The government cites the changes proposed by MOE as model improvements in reducing red tape and achieving these goals. Practically, the amendments in Schedules E and F make administrative changes to correct errors and allow for one tribunal to review all environmental decisions in Ontario. The amendments relating to the TOR procedures for environmental assessments allow for further public notice and comment and review by the minister.

The government noted that reducing duplication would not impact monitoring of statutes and would allow MOE to focus resources more efficiently and effectively.

Public Participation & *EBR* Process:

The ECO believes that MOE acted in accordance with the *EBR* by posting the proposal long before any final decision was to be made. A specific person was named to whom written comments should be directed and all the amendments were posted for comment.

The ministry felt that only one of the proposed amendments required posting on the Registry and said the rest were considered administrative. This amendment dealt with the procedures required to amend a TOR document for an environmental assessment. It allows the minister to amend and approve the terms of reference for an assessment based on the results of stakeholder consultations. The procedures also provide for public notice (through a Notice of Submission) and for public comment and inspection opportunities. Although MOE determined that it was not required to give notice of more than this change, they decided to include all the proposed amendments on the Registry for consistency.

As of late May 2001, MOE had failed to post a decision notice for this Bill, despite being urged by the ECO to do so on February 21, 2001. In order for the Registry to function properly and for the public to remain informed, the responsible ministry must post decision notices in a timely fashion. Due to this lack of information, the ECO has been unable to review the type of public comments that were received and the extent to which they were taken into account.

SEV:

MOE considered its SEV in reaching this decision. Since most of the amendments were administrative in nature, the ministry felt that the changes would have no effect on environmental protection, the ecosystem approach to environmental protection, or resource conservation.

Other Information:
Bill 119 also included amendments to MNR legislation, which has been the subject of ECO review.

ECO Comment:
The changes outlined in Schedule F regarding the consolidation of the Environmental Assessment Board and the Environmental Appeal Board should make the review process simpler and more efficient for all parties involved. The two boards already share their location, staff and members. The decision-makers are familiar with the issues faced by both boards, which should result in a smooth merger between the two. By consolidating the two appeal boards and creating one Environmental Review Tribunal, the ECO believes the MOE made a decision based on social and economic considerations in an effort to make the process simpler and less expensive.

The changes outlined in Schedule E dealing with the procedures around the terms of reference document are in accordance with the purposes of the *EBR* as they clarify the transparency and accountability requirements related to MOE decision-making on TORs. They also give the minister a chance to further amend a TOR document after meeting with stakeholders.

The ECO is concerned, however, about the ministry's failure to post a decision notice on the Registry within a reasonable period after Bill 119 passed third reading. This stage of the Registry process is vital to maintaining public awareness of the current status of the law and MOE should endeavor to post decision notices promptly once bills pass third reading. The failure to post a decision notice means that the public can not see how their comments were considered in the decision-making process.

Review of Posted Decision:
Amendments to the General Regulation under the *Pesticides Act*
(O. Reg. 228/00 amending Regulation 914 of R. R. O. 1990)

Decision Information:

Registry No: RA00E0001	Comment Period: 30 days
Proposal Notice: January 28, 2000	Number of Comments: 1
Decision Notice: May 8, 2000	Regulation Filed: April 14, 2000

Description:

In April 2000, MOE promulgated O. Reg. 228/00, which amended certain parts of Regulation 914. Regulation 914 is the general regulation under the *Pesticides Act* covering the sale, use, storage, transportation and disposal of pesticides, and the training and licencing requirements for pesticide operators.

In its Notice of Proposal for Regulation, MOE stated the proposed regulation would make "minor housekeeping changes" to Regulation 914, needed to keep the regulation current regarding scientific conditions, new technology, and stakeholder concerns.

O. Reg. 228/00 amends provisions of Regulation 914 concerning the sale, use and storage of pesticides, and the training, supervision and licencing of pesticide handlers. The substantive amendments to Regulation 914 may be summarized as follows:

1. A new minimum age requirement of 16 years is established for certified agriculturists, assistant agriculturists and sales outlet representatives. [Sections 94 (2.1) and 109 (1)(a.1)]

2. In certain circumstances, exterminators, technicians, trainees, certified agriculturists and assistant agriculturists are no longer required to carry proof of their certification / licencing on their person. Instead it is now acceptable to have a copy of the documents "readily available." [Sections 5 (5), 20.1 (3), 20.1 (3.1), 94 (2.2)]

3. Chloropicrin gas is now authorized for use by the holder of a fumigation soil-licence, and subject to the conditions applicable to outdoor fumigations in soil. [Sections 30.1 (4) and 43 (1)]

4. An exterminator may now supervise more than three technicians or trainees at the same time for training purposes so long as the technicians or trainees do not perform exterminations for payment [Section 20.2 (1.1)]

5. Certified agriculturists no longer need to be present when an assistant agriculturist mixes, loads or applies certain pesticides. It is now sufficient that the certified agriculturist be on call, provided he or she is available for immediate response through an effective communication system and able to attend emergencies at the site in a reasonable time.

[Sections 94 (9), (9.1) and (9.2)]

6. A certified agriculturist is prohibited from supervising more than three assistant agriculturists at a time in applying, loading or mixing certain pesticides. [Section 94 (11)]

7. A general vendor may now sell Schedule 2 pesticides to a water exterminator. [Section 111 (20)(b)]

8. Warning placards for certain structural exterminations must now be sufficiently illuminated to allow them to be read at all times. [Section 37 (1)(d)]

9. Safety procedures regarding fumigations in vehicles or specified structures are now required to be in place before the fumigation begins. As well, the vehicle or specified structure must be sealed before or immediately after the introduction of the gas. [Sections 41 (1)(2)(1) and 41 (1)(2)(7)]

10. Safety requirements for the storage of Schedule 1, 2, 3, 4, 5 or 6 pesticides in unsupervised vehicles now apply whether the pesticide is mixed or diluted and whether it is for use or not. [Sections 120 (1) and 120 (2)]

11. Storage of a Schedule 1, 2 or 5 pesticide requires sufficient security measures to ensure the express permission of the person responsible is obtained to enter the storage area. [Section 122 (1)(c)]

12. Certain exterminations that use a Schedule 4 or 6 pesticide are no longer subject to certain insurance, notice, and warning requirements. [Section 129 (3)]

13. Definition of "farm land" is amended in section 1 (1) to mean land that falls within the farmlands property class as defined in s.8 of the General Regulation under the *Assessment Act* (O. Reg. 282/98) and s. 7 of the *Assessment Act*.

14. Where an exterminator assists another exterminator in the performance of an extermination that the assistor is not authorized by his or her licence to perform, the assistor is treated as a technician for most parts of the Pesticides Act. [Section 20.1 (1.1)]

Implications of the Decision:

Many of the actual amendments will have obvious positive impacts on the environment and public health and safety, such as minimum age requirements, improved lighting for warning placards, restrictions on the number of assistants who can be supervised at one time, and improved safety procedures for storage and use of pesticides. However, other amendments have unclear or potentially negative environmental impacts, such as reduced supervision of assistant agriculturalists (also known as "growers"), sales to water exterminators, reduced notice, insurance and warning requirements for Schedule 4 and 6 pesticide users, and a new definition of farm land.

The changes to Regulation 914 made by O. Reg. 228/00 were requested by industry officials immediately after O. Reg. 405/98 was promulgated. O. Reg. 405/98 included numerous amendments to Regulation 914; some were substantive but most were predominantly administrative. The key substantive amendments made by O. Reg. 405/98 included the following:

- Products registered under the federal *Fertilizers Act* and under the federal *Pest Control Products Act*).were shifted under the ambit of provincial *Pesticides Act.*
- Procedures for proper disposal of empty pesticide containers were specified for the first time.
- Updated licensing requirements, training, fees and exemptions for operators, and training and supervision requirements for unlicensed assistants were outlined.
- Categories of licences were reduced from 53 to 18.
- Exemption from licensing requirement for certain kinds of low toxicity exterminations, to encourage reduction of more toxic pesticides.

The Pesticide Industry Regulatory Council felt that the changes made by O. Reg. 405/98 did not address certain problems contained in Regulation 914 that they had expected would be corrected by O. Reg. 405/98. Thus, they requested that MOE make further changes to Regulation 914, and this provided the policy basis for O. Reg. 228/00.

MOE included a Regulatory Impact Statement (RIS) in the Environmental Registry proposal notice stating that the proposal "to amend the assistant grower supervisory requirements for agricultural pesticides ensures that certified agriculturists will provide proper instructions and be available to supervise assistants." The RIS went on to note that "the proposed amendments will meet current farmer needs based upon modern farming practices" and that the proposal "strengthens the training of seasonal agricultural workers in the safe use of pesticides." MOE also claimed that the proposed regulatory amendments for supervision and the existing basic training requirements of agricultural assistants under supervision "is in keeping with MOE's new training requirements for assistants of commercial applicators. The supervision requirements and training will encourage assistant growers to handle and apply pesticides under supervision in a safe manner that continues to protect the environment and human health."

While MOE is to be commended for including an RIS in its proposal notice, this statement appears to be another description of the proposal rather than an explanation of the positive and negative regulatory impacts of the proposed regulation.

The RIS included in the proposal notice also failed to discuss any potential negative impacts of the proposed regulation or say that none are anticipated. Moreover, the RIS is misleading when it states that the supervision requirements will encourage assistant growers to handle and apply pesticides under supervision, when amendments to Aection 94 actually provide for reduced supervision of assistant growers.

Public Participation & *EBR* Process:

This proposal was posted on the Environmental Registry for a 30-day comment period. The Registry notice included a link to an electronic copy of the proposal. In addition, the Registry posting provided contact information for eight government offices where the full text of the proposed regulation was available for viewing. The ECO commends MOE for making the full text of the proposal available on the Internet and at several MOE offices.

The proposal notice refers to the fact that the amendments contained in O. Reg. 228/00 are intended to serve stakeholder concerns, but does not identify any of the actual stakeholder concerns beyond "farmers needs based upon current farming practices." The ministry could have improved the quality of the notice by offering examples of what the stakeholder concerns were and how the amendments seek to address these concerns.

There was one comment received regarding this proposal from the Pesticide Industry Regulatory Council as outlined in the section above. In the Notice of Decision, MOE indicates that the comment supported the proposed regulatory amendment. This is understandable because most of the changes were made at the PIRC's request. There were a number of minor amendments outlined in the proposal notice, with no apparent environmental significance, that were not contained in the final regulation. However, MOE failed to explain why the ministry decided it did not want to proceed with these minor changes.

MOE posted the decision notice approximately three weeks after the regulation was filed for publication in the *Ontario Gazette*.

SEV: MOE considered its Statement of Environmental Values in the development of the proposed regulation. In considering its SEV commitments, MOE identified the environmental, social and economic effects of the proposed regulation as follows:

- Environmental Protection: The housekeeping amendments reflect the need to ensure that Regulation 914 is current with scientific conditions, new technology, and stakeholder concerns in the constantly changing field of pesticide and pest management.

- The Ecosystem Approach: The proposed amendments deal with minor housekeeping changes to clarify words, terms, definitions, sections and requirements and to revoke outdated implementation requirements.

Thus, the decision does not appear to conflict directly with any provisions or commitments set out in MOE's SEV.

Thus, the decision does not appear to conflict directly with any provisions or commitments set out in MOE's SEV.

ECO Comment: Under MOE's Regulatory Review launched in 1995, the ministry said it would clarify, consolidate, modernize and streamline Regulation 914, making it more current and comprehensible to users. The changes made by O. Reg. 228/00 appear to help the ministry as it implements its goal to clarify Regulation 914.

The ministry should have indicated in its proposal notice that some of the changes were requested by industry because of perceived gaps in previous regulatory reform initiatives in 1998 and 1999. Moreover, in its decision notice, MOE should have explained why a number of minor amendments outlined in the proposal notice were not contained in the final regulation.

Review of Posted Decision: *Toughest Environmental Penalties Act, 2000*. Bill 124: An Act to amend the *Environmental Protection Act*, the *Ontario Water Resources Act* and the *Pesticides Act* in respect of penalties.

Decision Information:

Registry Number:	AA00E0002	Comment Period:	30 days
Proposal Posted:	October 11, 2000	Number of Comments:	UNKNOWN
Decision Posted:	NOT YET	Act Passed:	November 21, 2000

Description:

In November 2000, the government enacted the *Toughest Environmental Penalties Act, 2000* (*TEPA*). It increases the administrative monetary penalties first introduced by Bill 82 in 1998 for the following offences in the following statutes:

- *Environmental Protection Act*: an offence that results in an adverse effect, an offence in respect of hauled liquid industrial waste or hazardous waste if it may result in an adverse effect, and the offence of failing to comply with a stop order;
- *Ontario Water Resources Act*: an offence that impairs the quality of water and certain offences that relate to water treatment or distribution systems that would also apply to the most serious offences under the Drinking Water Protection Regulation (O. Reg. 459/00); and
- *Pesticides Act*: an offence that causes an adverse effect and the offence of failing to comply with a stop order.

Through *TEPA*, the maximum fines for corporations are increased from $1,000,000 to $6,000,000 per day on a first conviction and from $2,000,000 to $10,000,000 per day on a subsequent conviction. The maximum fines for individuals are increased from $100,000 to $4,000,000 per day on a first conviction and from $200,000 to $6,000,000 per day on a subsequent conviction. The maximum period of imprisonment for individuals is increased from two years less a day to five years less a day. Finally, the maximum administrative penalty available is increased from $5,000 to $10,000 per day. Administrative penalties may be imposed by the Director under all three statutes amended by *TEPA* when a person has contravened a provision of an Act or regulation, has failed to comply with an order under the Act, or has failed to comply with a term or condition of a license or permit under the Act.

TEPA also makes another important change to all three statutes that MOE failed to mention in their proposal notice on the Environmental Registry. It removes the provisions in each statute that allow an MOE Director to require an officer or director of a corporation to pay an administrative penalty for breaching their "duty of care." These provisions were initially included in Bill 82, the *Environmental Statute Law Amendment Act, 1998*. However, the provisions had not yet come into force, when they were removed under *TEPA*. Specifically, under the previous provisions, a corporate officer or director could have been liable for failing to take all reasonable care to prevent the corporation from causing or permitting an unlawful discharge of:

- a contaminant into the natural environment (subsection 182.1(1)(d) *Environmental Protection Act*).

- any material into any waters or shore of waters that may impair the water quality (subsection 106.1(2)(d) *Ontario Water Resources Act*).
- a pesticide that results in an impairment to the environment; injury or damage to property, plant or animal life; or harm, material discomfort or an adverse effect on the health or safety of any person (subsection 41.1(1)(d) *Pesticides Act*).

Implications of the Decision:
According to MOE, the purpose of Bill 124 is to strengthen the environmental penalty structure in the three statutes mentioned so that Ontario is equipped with the toughest fines and jail terms in Canada for major environmental offences. This legislation will ensure that the province has the ability to impose tougher administrative penalties on major polluters that break the law. While the ECO recognizes that the threat of fines at such high levels may likely serve as a deterrent for many potential infractions, the effectiveness of the legislation depends on whether there is enough ministry staff to work with companies on compliance issues and enforce the statute. The size of fines that are imposed by the courts now that the increased penalties are in place remains to be seen.

Removing the provisions in all three statutes that allow the MOE Director to require an officer or director of a corporation committing an offence to pay an administrative penalty for breaching their "duty of care" has very important implications. As a result, breaches by corporate officers and directors of their statutory duty of care to prevent contamination by their corporations can be pursued only through prosecution, which is a more expensive and uncertain alternative.

Public Participation & *EBR* Process:
MOE allowed a comment period of 30 days, the minimum time required under the *EBR* for public comments to be submitted. Two comments were received during the comment period. While the commenters did acknowledge the usefulness of penalties as a deterrence tool to effect behavioural change in environmental infractions, some were concerned that there was not enough funding or compliance staff to apply the statute. They also questioned the purpose and effectiveness of legislating for higher potential fines when it is unlikely that they will be imposed at those levels. As well, the commenters challenged MOE to refer to any studies or other evidence showing that the previous levels of penalties were inadequate, pointing out that the courts rarely impose the maximum fines already available. The commenters also pointed out that a corresponding increase in the minimum fines available would have been effective in increasing fines and penalties, and suggested that any changes to fines under the *Ontario Water Resources Act* be postponed until the findings and recommendations of the Walkerton Inquiry are released.

SEV:
According to MOE, this legislation corresponds with the main objectives of MOE's Statement of Environmental Values: environmental protection, the ecosystem approach, and resource conservation. In considering its SEV, MOE concluded that the legislation would contribute to the ecosystem approach in that it enhances the penalty structures in the *Environmental Protection Act*, the *Ontario Water Resources Act* and the *Pesticides Act* for offences relating to air, land and water. With regard to environmental protection and resource conservation, MOE stated that, "The

Province in committed to creating a cleaner Ontario through tough enforcement." MOE also believes that the tougher penalties in TEPA provide the ministry with a greater ability to deter and punish polluters.

Other Information:

Along with this proposal, MOE proposed an environmental SWAT Team as an additional measure to be used in an effort to get tough on polluters. This is a group of about 65 highly trained inspectors and investigators, as well as environmental program analysts, environmental engineers, scientists and a laboratory technician, who will crack down on companies or individuals who deliberately or repeatedly break the law.

ECO Comment:

An increase in the potential fines that can be handed out to individuals and corporations which break environmental laws is an important and positive decision by the MOE. The threat of fines at such high levels will likely serve as a deterrent for many potential infractions. However, the effectiveness of the legislation is compromised by the lack of resources for compliance staff to work with companies on compliance issues and enforce the statute. The province's poor success rate in collecting environmental fines is also a concern. As of March 31, 2000, the Ministry of the Attorney General reported that more than $10 million in accumulated environmental fines remains unpaid.

The removal of the provisions regarding the power of the MOE Director to require an officer or director of a corporation to pay an administrative penalty for breaching their duty of care is noteworthy. These provisions may have been removed because of constitutional considerations under the Canadian *Charter of Rights and Freedoms*, since they allowed the MOE Director to impose penalties on corporate officers and directors without giving them the opportunity to answer to the allegations or present their defence at a trial. Bill 82, the Act which inserted these provisions in the first place, was reviewed in the ECO 1998 annual report, where it was pointed out that the Act was posted on the Environmental Registry for only 10 days rather than for the minimum period of 30 days required by the *Environmental Bill of Rights*. If constitutional problems did exist with the provisions contained in Bill 82, this may be related to the fact that it was developed in such haste, with such an extremely short public comment period. MOE should have posted the proposal for Bill 82 for a longer period and undertaken better consultation on its original proposal before putting the Act in place. Proper use of *EBR* tools can make the environmental decision-making process more effective and less prone to error.

Most importantly, the removal of these provisions is a very significant change that the MOE left out entirely from the proposal notice. The failure even to mention this change, and thereby fully describe the legislation, weakened the Registry notice and detracts from the goal of transparency of decision-making. It is extremely important for the purposes of open and transparent decision-making to refer to all the significant changes in new legislation and encourage public comment on each component.

2. Ministry of Natural Resources Decisions

Review of Posted Decision:
Arrowhead Provincial Park Management Plan

Decision Information:

Registry Number:	PB6E3003	Comment Period:	45 days plus 45 for update in 1998
Proposal Posted:	1996/07/02 1998/07/20	Number of Comments:	13
Decision Posted:	2000/12/06	Policy Implemented:	January 12, 2001

Description:

The Arrowhead Provincial Park Management Plan was completed and approved in July 2000 and officially released on November 29, 2000, by Ontario Parks, an organization within the Ministry of Natural Resources. The Park Management Plan confirms the long-term direction for the protection, development, management, operation and use of the park's resources for the next 20 years.

Arrowhead Provincial Park is located on Highway 11, 8 km north of Huntsville in the District Municipality of Muskoka. The park is approximately 1,237 hectares in size. It contains two lakes and abuts the north shore of the Big East River. More than 100,000 users visit the park annually for year-round outdoor recreational activities, including camping, hiking, cross-country skiing, snowshoeing, tobogganing and ice fishing.

The approved Park Management Plan represents the fourth stage in the planning process, which began in 1996 with the release of the Terms of Reference and the release of a document entitled *Arrowhead Provincial Park Management Plan Review 1996: Compilation of Background Information.* The third stage was the July 1998 release of the *Arrowhead Provincial Park Preliminary Park Management Plan.* The final approved version of the Park Management Plan is the result of a few changes made to the Preliminary Park Management Plan following public consultation.

The changes to the Preliminary Park Management Plan represent public concerns raised over the proposed addition of a portion of the Big East River to the boundaries of the Provincial Park. Opposition by adjacent landowners to this proposal prompted Park planners to remove this policy. The addition of this river segment has, however, been addressed as part of a larger Waterway Park classification approved under Ontario's Living Legacy Land Use Strategy. The Waterway Park classification incorporates areas of "outstanding recreational water routes with representative natural features and historical resources to provide high quality recreational and historical experiences." The creation of a Waterway Park for the Big East River represents a small portion of the 577,984 hectare net increase in lands under the *Waterway Park* classification province-wide, enabled through the Ontario's Living Legacy Land Use Strategy.

Implications of the Decision:
Arrowhead Provincial Park is designated under the Ontario Parks System as a Natural Environment Park due to the existence of provincially significant landforms and associated plant communities and the area's diversity of outdoor recreation opportunities. The approved Park Management Plan appears to have positive environmental implications for the park and surrounding area. The new Park Management Plan replaces the outdated 1986 Park Management Plan, and provides an ecosystem approach to the protection, development, management and operation of the Park.

It is the ECO's opinion that the goals, objectives and policies of the Park Management Plan promote local social and economic benefits. Arrowhead Provincial Park will no doubt continue to be an integral element of the area's tourism market, both "benefiting from and bringing benefits to the local business sector." Ontario Parks and the Park Superintendent should be cautious, however, of expanding the form and/or function of the Park Store, as it may create unwanted competition for local business-owners who currently provide certain services to park-goers that the present Park Store does not (i.e., open late at night, sale of prepared food, specialty items, etc.,).

Public Participation & *EBR* Process:
Thirteen comments were received during the planning period. Included in this number were two verbal comments and two requests for copies of the Preliminary Park Management Plan. Four comments were opposed to the proposed boundary expansion to include portions of the Big East River within the Park. Two comments were received in support of the expansion. The major issue with the proposed expansion was the location of the boundary in relation to adjacent private land. Landowners were concerned about possible market depreciation of their properties and the shifting of local revenues away from other outdoor recreation-based and retail businesses along the river. Several commenters voiced concerns with the alleged mismanagement of other portions of the river by the Algonquin Forestry Authority. These commenters were worried that the proposed Arrowhead Provincial Park management of the expansion area would be equally disruptive to the natural river fluctuations. The remaining comments had no bearing on the Park Management Plan's approval because they were information requests only.

Four additional comments were received by MNR during the 45-day inspection period following the approval of the Park Management Plan, which ended January 12, 2001. Of these additional comments, one was a position paper neither in support nor opposition to the Park Management Plan from the Ontario Recreational Canoeing Association (ORCA). One was an updated comment from MNDM indicating that the area of Crown land identified within the Plan that may in the future be added to the Park has no identified mineral occurrences on it and is not covered by mining claims. MNDM stated that there would likely little opposition from the ministry to withdrawing this area from staking and adding it to the provincial park if and when the adjacent private land is acquired. One of the two remaining comments consisted of a letter from a local river-front property owner in support of the Park Management Plan. A second letter voiced concern that the proposed new or expanded park store will sell retail gifts, souvenirs and food items, which could take revenue away from local stores located outside the park, in essence making the Provincial Government a local retail competitor.

The Environmental Registry notice for the Invitation to Participate in the Park Management Plan process was originally published for 40 days in July 1996. It was republished at the Notice of Preliminary Plan review stage in July 1998, with a 45-day comment period. The Notice of Decision was published on the Registry in December 2000 at the plan inspection stage. Unfortunately, the Decision Notice in this final stage neglected to inform the public adequately of the 45-day inspection period during which they could comment on the approved plan. The description of the purpose of the December 6, 2000 notice read as follows: "It was republished on December 6, 2000 to clarify the opportunities that have been available for public review." There is no mention of the January 12, 2001 deadline for further comments during the inspection period. Nevertheless, four comments during this period were received by MNR. MNR should have crafted the decision notice more clearly and carefully, in order to provide as much information to the public as possible.

Despite this oversight, the planning process incorporated public consultation in addition to the Registry through newspaper advertisements, direct mailings, and notice postings within the park. During the Preliminary Plan review stage the public had the opportunity to attend a public open house and obtain copies of the Preliminary Plan at the Huntsville Public Library and at the Park. Following initial feedback, additional supplementary meetings were held with concerned local citizens.

The Registry decision notice stated that the final version of the Park Management Plan was available electronically by clicking two listed hyperlinks. Neither hyperlink provided direct access to the document. MNR should ensure that its hyperlinks function as indicated, and do in fact connect users to the needed documents.

SEV:

MNR states within the Preface to the Park Management Plan that throughout its development, the ministry has considered its Statement of Environmental Values, and that the Plan is intended to reflect the direction set out in the SEV and to further the objectives of managing resources on a sustainable basis. The SEV Briefing Note substantiates this level of consideration. MNR's detail in the briefing note should be commended. No aspect of the approved Park Management Plan conflicts with the provisions or commitments established by MNR's SEV.

Other Information:

MNR made available by mail the background information document *Arrowhead Provincial Park Management Plan Review 1996: Compilation of Background Information* at the Park during the Preliminary Park Plan review stage. MNR should have made this document and all other supporting documents available through a direct electronic link on the Registry notices, once the electronic version of the Environmental Registry was in service.

ECO Comment:
MNR was not consistent in its use of the Registry to inform the public adequately of participation opportunities. It is clear from the comments received during the planning process and following the approval that most of the respondents were local residents who benefitted from the more localized notification techniques (i.e. newspapers, direct mailings, park posters, etc.) used by MNR. The Registry notices, particularly the decision notice, fail to give clear and accurate information on comment periods and access to electronic copies of the Park Management Plan and supporting documents. The ECO acknowledges MNR's use of a mandatory contact list for park planning initiatives and the incorporation of notices into park leaflets and bulletin board notices.

MNR should be commended on the ecosystem approach it has taken to the protection, development, management and operation of the Park. MNR should also be recognized for its efforts to work with local residents who had specific concerns regarding the proposed Park expansion. MNR's removal of policies related to the proposed inclusion of portions of the Big East River, however, should be viewed with a critical eye since the lands in question are nevertheless subject to a much larger land expansion scheme developed under Ontario's Living Legacy Land Use Strategy. MNR did not provide any indication of the reaction to this alternate land use scheme of those landowners who were concerned with the proposed expansion of the Park Boundary.

Review of Posted Decision: New Business Relationship between MNR and the Ontario Bait industry - interim Memorandum of Understanding (MOU)

Decision Information:

Registry Number: PB8E6023
Proposal Posted: October 5, 1999
Decision Posted: April 26, 2000
Comment Period: 30 days
Number of Comments: 3
Policy Implemented: April 1, 2000

Description:

Ontario has approximately 1,300 bait harvesters who collect and sell species that are used as bait by recreational anglers. These species include minnows, mud minnow, frogs, leeches, lake herring, crayfish, darters, sculpins, stickleback, suckers and trout perch. Bait harvesters supply bait to about 650 dealers, who retail the bait to anglers. This industry generates economic activity and economic sales estimated to be worth between $40 to $60 million annually. However, according to MNR, bait was an undervalued resource that was minimally managed until recently. Species populations were threatened by inadequate policy direction and enforcement, as well as insufficient harvest information. These problems compromised the sustainable management of the bait species and endangered the long-term survival of the species populations.

In an attempt to modernize the bait industry, MNR began working with the Bait Association of Ontario (BAO) to establish a new business relationship between MNR and the industry representatives. The BAO is the only provincial organization representing the interests of Ontario's bait harvesters and dealers. It was formed in May 1998 to provide the industry with a single voice to deal with government agencies and to facilitate the development of the new business relationship. MNR posted a proposal notice for an interim memorandum of understanding (MOU) regarding the management of bait resources on February 5, 1999. On May 17, 1999 MNR and BAO entered into the interim MOU, and it terminated on November 30, 1999. MNR posted this proposal on the Registry to get public comment on the original MOU which could be used by MNR and the BAO in the development of their new, one-year MOU. The new MOU was implemented on April 1, 2000 and terminated on March 30, 2001.

Under the first MOU, MNR agreed to provide $50,000 and ongoing assistance to the BAO in order to allow the BAO to establish an office to take over certain research and administrative activities, including:

- development of a membership and industry-wide mailing network
- establishment of communications networks both within and outside government
- conduct ratification meetings with the full provincial membership and with each region
- assist MNR in developing commercial bait related policies and regulations that foster sustainable industry development, maintain a healthy environment and stable ecosystem, and resolve issues pertaining to harvest reporting
- implement a public education program regarding the danger of exotic species importation.

Under the new interim MOU, MNR proposed to give the BAO an additional $178,900 for the following additional BAO responsibilities:

- administration of bait-fish licencing for the collection and sale of bait
- expansion of industry's participation in fish stock monitoring and assessment
- expansion of industry's role in compliance monitoring and policy development
- work with MNR to train ministry staff about the new directives and procedures of the modernized bait management system and industry practices.
- developing state of the resource reporting, including licence sales and revenue and the amount and volume of bait harvested in Ontario, along with summary statistics.

Implications of the Decision:

MNR and the BAO felt that the changes would ensure that bait-fish resources in Ontario are developed in a sustainable fashion by protecting the resource and their ecological foundations. Both parties viewed the partnership as a significant step to better management of the resource, ensuring that harvest levels remain within the limits that the province's ecosystems can support, and in turn ensuring the perpetuation of healthy recreational fisheries. MNR stated that the implementation of a more effective audit and enforcement program within MNR ensures more orderly access to and use of the bait resource and a fair return to Ontario taxpayers for the use of the bait resource. MNR also anticipated that the establishment of better harvest reporting mechanisms and biological studies on bait sustainability levels will provide greater knowledge. The ministry stated that the new business relationship ensures that better data is collected and provides a knowledge base for anticipating and preventing problems within bait populations in Ontario.

MNR also considered the economic, social and environmental implications of the increase in bait-fish licence fees that it implemented prior to this proposal. While the increase was fully supported by MNR and the BAO, this decision was part of a different initiative.

The ECO is concerned with the long-term implications of the delegation of responsibilities by MNR to the bait industry. While the BAO may have a specific expertise in bait management systems and be more familiar with industry practices, MNR should continue to take an active approach to monitoring and regulating the industry and to protecting the bait species and their habitat. MNR advises that its delegation to the BAO does not in any way diminish the ministry's "ability to actively manage the bait resource in Ontario."

Public Participation & *EBR* Process:

This proposal was first posted on the Environmental Registry on February 5, 1999, with a 30-day comment period. It was re-published on October 5, 1999, to provide persons with the opportunity to comment on the interim MOU. According to MNR, ministry staff and the BAO worked closely together to create this proposal. MNR first met with the bait-fish industry at a workshop in March 1997, where it presented the industry with facts showing bait as an undervalued resource and a lack of reliable harvesting information. A seven-city tour in the spring of 1998 resulted in about 350 of the bait harvesters and dealers in the province attending to learn first-hand about the new initiative.

Subsequent meetings and joint mailings to all bait harvesters and dealers ensured that all industry members were aware of the development of the new business relationship. Joint working groups are in place to discuss, review and recommend changes to policies and legislation affecting the bait resources in Ontario. Several interest groups such as the Ontario Federation of Anglers and Hunters, the Northern Ontario Tourist Outfitters Association and the Ontario Commercial Fish Association were also briefed on the proposal.

Three comments were received on the interim MOU but did not lead to a change in the content of the proposal. According to MNR, the first comment was supportive but dealt with issues beyond the scope of the proposal. It did make several recommendations about commercial bait harvesting, and discussed the merits of increasing royalties payable to MNR. Since this did not deal with the details regarding how commercial bait harvesting ought to be managed, the comments did not impact on the decision. In addition, a system of royalty fees similar to those recommended and that exist in the commercial food fish and fur industries would require a regulation to be passed to give legal effect to such a proposal and, according to MNR, is already under consideration. The second comment received complained about the price increases for licenses and the third made recommendations that related to a specific Bait Harvest Area.

SEV:

The ECO commends MNR for the very detailed consideration of its SEV that it undertook in making this decision. According to MNR, the proposal was consistent with its goals, as it continued to ensure that the province's bait-fish resources are developed in a sustainable fashion and contribute to ecological sustainability. MNR anticipated that it would also contribute to the achievement of the following ministry objectives:

- ensuring that these resources and their biological foundations are protected and conserved by providing a means for more effective harvest control and management and a more effective audit and enforcement program; and
- ensuring the continuing availability of bait-fish to licensees and purchasers by improving administrative mechanisms and working with industry to ensure the orderly development of the bait industry.

MNR stated that the establishment of a new business relationship with the bait-fish industry is consistent with MNR's supporting strategies that partnership arrangements in natural resource decision-making and management be increased to share more fully the responsibility for resource stewardship. In specifying the activities and deliverables to be provided by the BAO, MNR views the agreement as similar in nature to agreements entered into by the ministry with the commercial fisheries and fur industries. MNR also stated that its improved fee structure supports the proper valuation of the resource.

MNR also concluded that the decision contributes to each of the purposes set out in Section 2 of the *EBR*. MNR took into account the economic and social implications of fee increases and concluded that while they may be viewed as too rapid and cause some operators to drop out of the business, it is necessary to value and manage the resource effectively. MNR views the protection and conservation of bait resources and their diversity as critical to a sustainable industry.

Other Information:

On March 21, 2000, MNR passed a number of amendments to two regulations under the *Fish and Wildlife Conservation Act, 1997* - O. Reg. 664/98 Fish Licensing and O. Reg. 665/98 Hunting. The amending regulations are 196/00 and 197/00 respectively. The proposal for the amendments was posted on July 14, 1999, and an extensive decision notice was posted on July 28, 2000 (RB9E6007). MNR states that it made considerable efforts to negotiate a compromise on some of the contentious issues related to the new regulations (e.g., harvesting of frogs) with the industry and environmental and conservation groups. MNR also points out that all the parties to the discussions on the new regulations supported the resulting regulations.

MNR states in its decision notice that it expects these regulations to help ensure the long-term viability of commercial and non-commercial bait activities and to bring the regulation of the bait industry in line with other commercial uses of Ontario's fish and wildlife resources. The changes include:

- Commercial bait operators must now keep a daily log book of bait harvested and sold.
- The commercial trade of salted bait is now prohibited. This prevents "chumming" – the unsustainable practice of commercial bait operators preserving bait through salting and selling them by the bushel to anglers who dump large quantities down ice fishing holes to attract other fish
- Persons without a commercial bait licence may not sell any species of frog or leech for bait.
- Persons with a commercial bait licence may not sell any species of frogs for bait other than the northern leopard frog, subject to conditions of licenses.
- Resident sport anglers who catch their own leeches have a daily catch and possession limit of 120 leeches, and they may only use single leech traps.
- Both resident and non-resident recreational anglers have a daily catch and possession limit of 12 northern leopard frogs, plus one of any other unprotected frog species.

Businesses engaged in the collection and sale of bait are required to have a valid bait harvester and/or dealer licence issued by MNR. In its initial posting in February 1999, MNR announced that a decision had been made by MNR and the BAO to raise the fees for these licenses to be effected through a minister's order under the authority of S.83 of the *Fish and Wildlife Conservation Act*. Both the BAO and MNR also saw the licence fees as insufficient to promote an orderly and sustainable industry, and felt that an increase would better value the resource and provide revenues for an effective partnership and industry organization. The increases were as follows:

LICENCE	*PREVIOUS FEES*	*PROPOSED FEES*
Bait Harvester	$32.50 to $1,500 per Bait Management Area	$300.00 plus $32.50 per BMA
Bait Dealer	$17.50	$150.00
Tourist Dealer	New category	$30.00

ECO Comment:
The ECO commends MNR for its efforts to engage industry representatives in its policy and legislative decision-making processes by entering a new business relationship with the BAO. By consulting with bait harvesters and dealers through workshops and presentations, MNR made public participation efforts that go beyond the minimum requirements of the *EBR*. However, the ECO is concerned with the implications of the delegation of responsibilities by MNR to the industry. While the BAO may have a specific expertise in bait management systems and be more familiar with industry practices, MNR should continue to take an active approach to monitoring and regulating the industry in an effort to protect the bait species and their habitat.

MNR also failed to take similar steps to inform and consult with environmental interests and local social interest groups. Further consultation and participation with all interested parties may have resulted in a more complete review that went beyond the primarily economically driven approach. MNR also could have improved its use of the Environmental Registry and the *EBR*. MNR did provide a contact name, title, telephone number and fax number for comments from all interested parties, and mentioned two offices that "may" have copies of the proposal. But it would have been more helpful for MNR to provide a hypertext link to the previous interim MOU on which the public was being asked to comment. Hypertext links should also have been provided to four different news items that MNR released outlining the background and facts about the MOU.

MNR should also have referenced the related Registry notice dealing with the regulatory amendments under the *Fish and Wildlife Conservation Act* (RB9E6007) in the proposal notice. These amendments implemented some of the changes made through the MOU and referred to separate matters and background information that may have been helpful to those preparing comments on the MOU. The proposal notice for the amendments to the regulations did refer to the first proposal notice dealing with the interim MOU. It would have been logical for the proposal notice for the long-term MOU to refer back as well.

Finally, a significant portion of MNR's SEV consideration dealt with the impacts of increasing the fees for commercial bait-fish license holders. While the increase was fully supported by MNR and the BAO, this decision was part of a different initiative. The decision to increase license fees was not posted separately on the Environmental Registry and was mentioned only in the first proposal notice for the interim MOU. MNR's SEV consideration should have concentrated on the relationship between the principles of the SEV and the decision to give industry representatives responsibility for harvest reporting, license administration and the other activities as specified in the MOU.

Review of Posted Decision: Management of Nuisance Bears under the *Fish and Wildlife Conservation* Act (*FWCA*) and its regulations

Decision Information:

Registry Number:	PB9E6010	Comment Period:	45 days
Proposal Posted:	August 3, 1999	Number of Comments:	0
Decision Posted:	April 17, 2000	Policy Implemented:	September 1999

Description:
The Ministry of Natural Resources (MNR) has prepared a policy on the management of nuisance bears as part of implementing the *Fish and Wildlife Conservation Act* (*FWCA*) and the regulations made under it. The purpose of the policy is to provide direction to MNR staff on how to interpret the Act and its regulations when they make decisions on the management of nuisance bears.

The policy moves MNR in the direction of reducing or eliminating its direct involvement in the management of nuisance bears. Property owners have for years been able to harrass or destroy a bear in protection of property, but now this provision has been enhanced. They may now hire an authorized agent to act on their behalf. Agents may shoot a free-ranging bear in order to protect property, but only if they have authorization or belong to a prescribed class of agents. Separate authorization is required to trap live bears. All bear shootings must be reported to MNR.

Although MNR will continue to provide educational material and advice and assist with the contracting and training of bear control agents, ministry staff will now become directly involved in the management of nuisance bears:

- when the number of nuisance bear problems is greater than the capacity of external resources to handle them; and
- to administer chemical immobilization drugs in instances where this is required and no other capability exists.

MNR recognizes that there will be emergency situations where ministry staff will be expected to provide assistance, but these emergencies are expected to decrease as external expertise is developed.

Implications of the Decision:
MNR did not comprehensively describe the potential environmental, social and economic consequences of the policy within its Registry posting; but the ministry did describe these considerations in the text of an internal SEV Briefing Note. MNR should have addressed these implications more thoroughly in the decision notice.

Public Participation & *EBR* Process:
There were no comments on this proposal. The comment period was 45 days, which exceeds the minimum requirements of the *EBR*.

MNR plans to continue to meet with municipal officials, police services personnel, local trapping councils and others in order to build municipal capacity to deal with nuisance bears. MNR also plans to develop training workshops for the delivery of an external nuisance bear control program.

The proposal was posted August 3, 1999, and the decision notice was not posted until April 17, 2000. In light of the fact that there were no public comments on this proposal and that the policy appears to have come into effect in September 1999, MNR should have posted the decision in a more timely manner.

SEV:
MNR considered its Statement of Environmental Values in the development of the policy on the management of nuisance bears. In considering its SEV commitments, MNR identified the environmental, social and economic effects of the policy as follows:

1. Environmental - The effect on the environment is expected to be neutral as the policy will not harm bear populations.

2. Social - The policy would provide a means for the people of Ontario to protect themselves and their property from nuisance black bears. This preserves a safe environment in which to live as well as preserving an individual's investment in the property. On balance, the social effects of the policy are expected to be positive.

3. Economic - It is expected that the policy will result in an economic contribution by providing opportunities for qualified and authorized individuals to trap black bears for remuneration. The policy also provides a means for individuals to protect themselves from the economic loss associated with property damage from nuisance bears.

Municipalities and individual property owners may not have the necessary resources or expertise to deal with nuisance bears and as a result, public safety may be endangered. In addition, the SEV considerations minimize the potential economic impact on municipalities which must assume the responsibility of developing a nuisance bear control program. MNR has stated, however, that they are committed to providing emergency assistance (at the request of police in situations where there is a risk of human health), and to providing interim control if bear control agents are unavailable.

Other Information:
N/A

ECO Comment:
MNR stated that its core business is ensuring the ecological sustainability of the province's bear

population and managing it in a manner that provides continuous recreational, social and economic benefits. MNR also stated that there will be a neutral environmental effect as a result of the policy. Although it is unlikely that the overall Ontario bear population will be adversely affected, there will be impacts on individual animals and potentially on local bear populations if enough animals are relocated or shot in protection of property.

MNR stated that the policy would provide a means for the people of Ontario to protect themselves and their property from nuisance bears, and that, on balance, the social effects of the policy were expected to be positive. However, the downloading of responsibilities to municipal authorities may fail in some areas. MNR retains the overall obligation to make sure that these new procedures are being implemented successfully.

The ECO inquired of MNR staff whether or not any public education programs were currently in place or proposed that would educate the public on the importance of proper garbage disposal management and whether any ministry-initiated policies were in place that would inhibit or prohibit the feeding of wildlife in areas known for nuisance bear activity. MNR's response was that the majority of the public education initiated by the ministry comes in the form of educational publications, including the "Living with Black Bears in Ontario" document and various factsheets for use by local trapping agents and municipalities. During the summer and fall, MNR staff in district and local offices also provide public education through television and radio interviews and presentations. MNR staff informed the ECO that "they educate/assist members of the public that are having problems when they respond to their phone calls...," and that "upon request, staff can also provide advice on the installation of preventative methods." MNR staff also authorize and train "agents" who provide trapping and relocation. In addition, MNR stated that there is currently no legislation prohibiting intentional feeding of wildlife. Local municipalities may or may not have by-laws in place restricting feeding and or the placing of garbage at the curb the night before the scheduled pick up. Yet MNR acknowledges that even when these by-laws exist they are rarely enforced.

MNR's educational programs and publications thus play a remediative role in nuisance bear control rather than a preventative role in eliminating the possibility of nuisance bears coming into direct contact with human settlement activities. Inadequate emphasis is being placed on the role of human mismanagement of garbage, etc., as the real "nuisance" in the problem of limiting bear-human interaction.

MNR has stated that it is expected that the policy will result in an economic contribution to Ontarians by providing opportunities for qualified and authorized individuals to trap black bears for remuneration. It also stated that the policy provided people with the means to protect themselves from the economic loss associated with property damage from nuisance bears. However, MNR did not address the cost to municipalities of training and paying bear agents or the cost to property owners for having nuisance bears trapped.

A decision notice for this policy was not posted until April 17, 2000, more than six/seven months after the policy came into effect. MNR needs to post decisions in a more timely manner in order to keep the public informed and up to date. In addition, MNR should have better addressed the potential environmental, social and economic consequences of the policy in its *EBR* Registry notice.

Review of Posted Decision:
Beyond 2000: Ministry of Natural Resources' Strategic Directions

Decision Information:

Registry Number:	PB9E4002	Comment Period:	30 days
Proposal Posted:	17-Nov-99	Number of Comments:	5
Decision Posted:	15-Jun-00	Policy Implemented:	June 13, 2000 (release date)

Description:

The purpose of the MNR policy, *Beyond 2000: Ministry of Natural Resources' Strategic Directions*, is to establish new, updated corporate directions that will guide how MNR will manage Ontario's natural resources into the next century. This policy builds upon *Direction '90s* and *Direction '90s... Moving Ahead 1995*. In *Beyond 2000*, the ministry formally adopts the ecological sustainability of Ontario's natural resources as its mission and sustainable development as its vision.

The policy outlines six supporting strategies related to MNR's vision and mission:

- integrated resource management;
- partnerships;
- valuing resources;
- knowledge and information;
- customer service; and
- organizational excellence.

There are nine desired outcomes associated with the supporting strategies:

- healthy ecosystems;
- natural resources sustained;
- natural heritage protected;
- economic potential maintained;
- fair return for resource use;
- outdoor recreation available;
- life, property and natural resources protected;
- natural resource science and information available; and
- sustainable resource management supported.

All of the above strategies and desired outcomes form part of a framework that articulates:

- an operating philosophy of resource stewardship, which focuses on safeguarding the public interest in natural resources and acting as the steward to the province's natural legacy;
- eight stewardship principles that clarify the system of beliefs, values and principles to guide ministry decision-making and actions; and
- six categories for measuring success, which will form the basis for establishing specific performance measures for gauging how well the ministry is performing in achieving its desired outcomes and supporting strategies.

Implications of the Decision:

Beyond 2000 has broad and significant policy and resource management implications. It establishes new, updated corporate directions to guide MNR in its decision-making and course of action. MNR states that it will form the basis of the ministry's business plans, will direct MNR with respect to which activities and initiatives it will undertake and will guide the ministry's spending. In addition, *Beyond 2000* will form the basis for a new MNR Statement of Environmental Values. MNR's current SEV is based on *Direction '90s* and *Direction '90s... Moving Ahead 1995.* MNR stated in the decision notice for this policy that it will consult broadly on a proposal for a new SEV following the revision of its strategic directions.

Public Participation & *EBR* Process:

MNR provided a 30-day comment period on the *EBR* Registry for this policy proposal. No other public consultation was undertaken on this proposal. *Beyond 2000* is an important policy initiative with broad and significant implications with respect to resource management. The ECO feels that the public comment period for this proposal was insufficient.

There were five comments on the proposed policy. MNR made one change as a result of the comments received. The policy was amended to include a more complete statement of the precautionary principle. The revised statement now reads "Our understanding of the way the natural world works and how our actions affect it is often incomplete. This means that we exercise caution and special concern for natural values in the face of such uncertainty and respect the precautionary principle."

Other issues raised by those who commented on the proposal were not incorporated into the final decision. MNR provided a rationale for not acting on some of these suggestions (inadequate emphasis on protection/conservation, sustainable development and ecological sustainability, and results measures) but did not address other concerns at all. Some issues raised in the comments that were not described by MNR in the decision notice for this policy, and which also do not appear to have been considered by staff, include:

- the need for a longer comment period/broader public consultation on the proposal;
- the need for ongoing public review of the business planning process and strategy development;
- the concern about the 30 per cent reduction in the ministry's budget since 1995 and how this will impact service delivery;
- the lack of recognition of the ministry's SEV in the proposal description;
- concern about the meaning of "eliminating barriers and disincentives" – does this mean deregulation?;
- the lack of attention to MNR's enforcement role;
- the lack of clarity with respect to which aspects of Crown land and resources MNR will continue to manage and which aspects will be passed off to partners;
- the public accessibility of knowledge and information (Land and Resources I&IT Cluster);
- the need to revise the strategic principles outlined in MNR's previous *Direction '90s* policy

in the first place;

- MNR's inaction on its instrument classification regulation;
- the interests of First Nations and the lack of consultation with them on land use and resource management decisions, integrated resource management and co-management;
- the elimination of the "first principle" which was included in *Direction '90s* as: "All life is connected, from the fungi in the soil to the birds in the sky. Human activity that affects one part of the natural world should never be considered in isolation from its effects on others";
- the lack of attention to maintaining biological diversity;
- the approach to wildlife as one of management instead of habitat protection, supporting natural systems, protecting essential ecological functions and maintaining healthy populations;
- the view that protection, conservation and retention of natural resources was not an integral part of resource stewardship; and
- the lack of recognition of lost opportunity costs in the discussion of valuing resources.

SEV:

MNR considered its Statement of Environmental Values in developing this policy. Although *Beyond 2000* does not address every issue in MNR's SEV, such as the protection of biological diversity and the recognition of Aboriginal rights, it does not conflict with any of the provisions or commitments in the SEV document.

Other Information:

MNR stated in the policy decision notice that, following the revision of MNR's strategic directions, it will consult broadly on a proposal for a new SEV. As of February 16, 2001, MNR has not posted anything on the *EBR* Registry related to a new SEV document.

ECO Comment:

Beyond 2000 differs from MNR's previous strategic direction documents in several ways. Some of the principles that were included in *Direction '90s* and *Direction '90s...Moving Ahead 1995* but that are missing from *Beyond 2000* include:

- recognizing that all life is connected and that human activity cannot be considered in isolation – that development in one area may have impacts on other areas;
- providing for public consultation and access to information and recognizing the right of the public to participate in decision-making;
- conserving biological diversity;
- imposing penalties for misuse of natural resources;
- fulfilling obligations to Aboriginal people; and
- recognizing that no development may be the best decision in some circumstances.

The absence of the principles listed above in the new strategic document is noteworthy because it implies that MNR has not employed an ecosystem approach to its policy development. Furthermore, it emphasizes a non-progressive direction for MNR's strategic planning. It is the ECO's opinion that *Beyond 2000* does not exhibit the same degree of positive environmental implications as its predecessors.

One theme that is common to all of the strategic documents is the use of different delivery options to achieve MNR's goals, such as direct delivery, contractual and entrepreneurial approaches, partnering, devolution and in some cases withdrawal of services. *Beyond 2000* explicitly states that MNR will "continue to reduce its direct operational roles in key functions." However, MNR does not explain when, in which areas/roles, or under what circumstances this reduction will take place. This is problematic, especially in light of the fact that *Beyond 2000* does not include a commitment to public consultation as was seen in the previous strategic direction documents. The public should be provided with an opportunity to participate in determining MNR's role in resource management, as well as an opportunity to participate in an ongoing review of MNR's business planning and strategy development.

Both the proposal and decision notices for *Beyond 2000* were well written, easy to understand and comprehensive. An electronic link to the policy was provided in both postings as well as information on where the public could obtain the policy and supporting material. However, the draft policy was available in only two MNR offices. As well, the decision notice did not describe all of the issues raised by commenters. MNR should have described all of the public's concerns (such as the need for a new strategic direction in the first place), and explained its response, in the Registry decision notice. In addition, MNR should have stated when the policy came into effect.

The ECO feels that the public comment period for this policy proposal was inadequate. *Beyond 2000* is a significant policy initiative that will broadly impact how MNR manages the province's natural resources. The public comment period for the *EBR* Registry posting was 30 days – the minimum required by the Act. No other public consultation was undertaken, and MNR did not address the public's concern about the consultation period in the Registry decision notice. In order to fulfill both the technical requirements and spirit of the *EBR*, and to provide the public with a meaningful opportunity to participate in the decision-making process, MNR should have extended the public comment period beyond the 30-day minimum, as well as engaged in other public consultation activities. In addition to the short comment period, the public's ability to have input on the policy may have been further impeded by the fact that it was available at only two MNR offices in southern Ontario. Residents of other parts of the province who didn't have access to the Internet had to rely on mail in order to obtain a copy of the policy, which may have further reduced the number of days they had in which to review the policy and submit comments.

Review of Posted Decision:
District/Great Lake Management Unit/Park Compliance Strategies for the five-year period April 1, 1999 to March 31, 2004: 25 of 29 Strategies

Decision Information:

Registry Number:	PB9E5001	Comment Period:	30 days
Proposal Posted:	1999/03/31	Number of Comments:	0
Decision Posted:	2000/10/20	Policy Implemented:	April 1, 1999

Description:

In accordance with MNR's approved Provincial Compliance Planning Direction (EBR Registry Number PB8E5001), the ministry proposed that 29 Compliance Strategies for management units and parks would be developed – one for each of the 25 administrative districts, three administrative units for the Great Lakes, and one for Algonquin Provincial Park. The proposal notice posted on the Environmental Registry at the end of March 1999 invited comment on the 25 completed Compliance Strategies. The four strategies which remain incomplete (despite the statement within the March 1999 proposal notice that the remaining four strategies would be published on the Registry "in about a month") include:

- Algonquin Provincial Park
- Kenora District
- Lake Ontario Management Unit; and,
- Lake Superior/Lake Huron Management Unit.

In July 2001, MNR informed the ECO that 27 as opposed to 25 compliance strategies have been completed. The compliance strategy for Algonquin Park was included within the Park's Management Plan; and the Kenora District compliance strategy was completed in 1999. MNR stated that "although it has not been posted on the Registry it was developed with input from the public locally."

The completed strategies were intended to provide direction on the planning and implementation of compliance activities within each district/unit for the five-year period from April 1, 1999 to March 31, 2004.

Implications of the Decision:

The completed compliance strategies were prepared using the Provincial Compliance Planning Direction, which stipulated that a consistent approach be taken to compliance planning across MNR's districts/units. Each strategy was to include descriptions of the following elements:

- Background
- Priorities
- Objectives
- Options and Impacts
- Review and Approval Process.

As part of the Provincial Compliance Planning Direction, annual compliance operations plans are to be prepared by each district/unit to implement the compliance activities identified in the five-year compliance strategies, such as ensuring resource users obtain appropriate licences, permits or authorization. These annual compliance operations plans will, according to MNR, set out what the priorities are for compliance, on an annual basis, but will not be establishing new policy. It appears that it is MNR's intention not to post notices for public comment on the Environmental Registry for these annual compliance operations plans.

The five-year compliance strategies hold the potential to provide increased transparency and accountability in ministry decision-making, in keeping with the spirit and intent of the *EBR*. However, the range of information included in the approved district/unit compliance strategies is sketchy. The strategies outline valuable information regarding resource allocation and compliance issues, and generally provide a list of potential options, but fail to provide a preferred mode of action to ensure compliance. For example, the Aurora District lists as an objective the need to protect the interests of significant wetlands and Areas of Natural or Scientific Interest. The options listed for promoting this objective include:

- increase staff and public awareness
- stringent enforcement of pertinent legislation
- promote protection of private land, through municipal planning process
- enlist the support and input of interest groups and municipal planning authorities
- ensure the integrity of these areas through maintenance of an accurate database.

While all the options appear desirable, the compliance strategy report failed to indicate whether MNR favours a particular option or combination of options. It appears that these choices will be made and reported on within the annual compliance operations plans, in order to clarify policy decisions. In addition, the compliance strategies often did not provide detail on the review and approval process which the Provincial Compliance Planning Direction stipulated should be included in each strategy. Rather, the strategies indicated that this review and approval component will be included in the annual compliance operations plans. For these reasons, the ECO encourages MNR to post the annual compliance operations plans on the Environmental Registry for public comment.

In July 2001, MNR informed the ECO that it "feels that it is more appropriate to post the more strategic document (the compliance strategy) and to continue to develop the lower level operational document locally with public input from local stakeholders and local citizen committees."

Public Participation & *EBR* Process:

The proposal notice for the 25 compliance strategies was posted on the Environmental Registry March 31, 1999 – one day before the proposed implementation of the five-year compliance planning period of April 1, 1999, to March 31, 2004. MNR provided a 30-day comment period on the proposal. No comments were received as a result of the *EBR* public notice requirements. MNR indicated in the decision notice that each district/unit also invited the public to comment on their respective draft strategies, and in "many cases" local citizens' committees participated in the development of the strategies. The decision notice was not posted until October 2000, more than one-and-a-half years after the proposal notice was originally posted on the Registry. No explanation was given by MNR for the delay in providing notice of the decision, nor was any explanation given for why some district compliance strategies took longer to finalize than others (e.g., none of the strategies indicated an approval date but merely the date on which they were printed. For example the Aurora District Compliance Strategy Report was not printed until October 2000, whereas the Alymer District Compliance Strategy report was printed in February 1999.)

Despite the last-minute posting of the proposal notice prior to the implementation period it affected, MNR provided adequate information on staff contacts and the availability of copies of the compliance strategies. A hypertext link was provided to the Registry notice for PB8E5001 – MNR's approved Provincial Compliance Planning Direction.

SEV:
MNR considered its Statement of Environmental Values in developing this policy. No aspects of the proposal appear to conflict with the provisions and commitments set out in MNR's SEV.

Other Information:
In the 1997, 1998 and 1999/2000 annual reports, the ECO raised concerns about MNR's forest and aggregate resources compliance programs. In response to past ECO recommendations, MNR is conducting reviews and audits of these two compliance programs.

ECO Comment:
MNR provided good ministry contact information and access to the draft documents. MNR should be commended on its decision to post its compliance strategies on the Environmental Registry, an action which other ministries, most notably the Ministry of the Environment, have thus far failed to do. (See pages 72-81 of the ECO's 2000/2001 annual report for a detailed discussion of MOE compliance.) The ECO urges MNR, however, to post the annual compliance operations plans on the Registry to encourage public awareness of compliance issues and to obtain valuable public input. The ECO also encourages MNR to work diligently to complete the remaining compliance strategies.

The ECO is concerned that MNR posted this proposal notice one day prior to the proposed date of implementation of the 25 compliance strategies. MNR should have provided a public comment period well in advance of the implementation of the planning period for which the compliance strategies applied. The lack of comments on this proposal may in part be due to this overlap in notice provision and policy implementation. The ECO is also concerned with the length of time MNR took to post a decision notice on the Registry. Since no comments were received by MNR, it is unclear to the ECO why it took over a year to finalize the draft compliance strategies.

It is unclear at this stage what all the implications of this decision may be. The compliance strategies are a positive step toward more open, transparent and accountable natural resource management decision-making within the province. The information contained within the compliance strategies is valuable, but failed to provide enough detail on preferred compliance options and the review and approval process. But the success of these strategies will become apparent only when they are implemented and MNR undertakes review and analysis to determine whether the strategies have been effective. The results of this type of review and analysis, and of the two formal audits for forestry and aggregate resources, may result in changes to these five-year strategies. The ECO urges MNR to post notice of any amendments to these strategies on the Registry.

Review of Posted Decision:
Amendment to the Clearwater Bay Development Guidelines

Decision Information:

Registry Number: PB00E1003	Comment Period: 30 days
Proposal Posted: February 15, 2000	Number of Comments: 0
Decision Posted: June 23, 2000	Policy Implemented: April 1, 2000

Description:
The Ministry of Natural Resources (MNR) prepared policy amendments to the Clearwater Bay Development Guidelines. Clearwater Bay is located on the northern portion of Lake of the Woods, near Kenora, in northwestern Ontario. The purposes of these amendments were to clarify the development restrictions laid out in the Clearwater Bay Restricted Area Order of 1991; to maintain the area's water quality and fish habitat through the creation of additional development restrictions; and to clarify the application and appeal processes for landowners in the area.

This policy builds upon Ontario Regulation 224/90 under the *Public Lands Act,* which instituted a Restricted Area Order for Clearwater Bay, requiring MNR's permission prior to any new structural developments or improvements to land in the area. This order was intended to prevent the further degradation of fish habitat and water quality due to the reduced oxygen levels and high nutrient levels observed by MNR researchers in Clearwater Bay between 1984 and 1987.

Two categories of proposed changes to the development guidelines were outlined in the decision. First, the policy amendments imposed new restrictions on development and clarified the type of development that can occur at or near the water's edge. For example, "establishing a maximum percentage of the shoreline that can be changed through development from a natural surface to a hard surface." Secondly, the type of development that could be authorized 20-meters inland from the shoreline was clarified. MNR will also update and reissue a booklet for landowners that will clarify the amended guidelines and the work permit application and appeal processes.

Implications of the Decision:
MNR did not describe the potential social, environmental, and economic implications of the policy in its Registry proposal notice. These potential consequences should have been addressed in the notice.

MNR's decision is intended to ensure the continued quality of fish habitat and water sources in the Clearwater Bay area. MNR claims that the clarification of certain aspects of the development guidelines will serve to inform the residents of the Clearwater Bay area of their rights and responsibilities in ensuring the health of their environment for future generations through controlled development.

Public Participation & *EBR* Process:
There were no comments received by MNR regarding this Registry proposal. The Registry

comment period was 30 days, which met the minimum requirements of the *EBR*.

Beyond the minimal Registry public comment period, MNR provided direct written notice of this policy proposal to landowners and other stakeholders in the affected area through a mailing list and a local magazine. Updates will be provided by MNR to these citizens to keep them informed of future developments.

SEV:

MNR considered its Statement of Environmental Values (SEV) in the development of the policy on amendments to the Clearwater Bay development guidelines.

MNR claims that the decision was consistent with the ministry's SEV as it sought to balance the "health, safety, convenience, and well-being" of the present and future inhabitants of the Clearwater Bay area with the "need to maintain water quality and fish habitat."

Moreover, MNR stated that the policy decision did not conflict with *EBR* purposes as they apply to environmental conservation and sustainability, and the right of Ontario citizens to a healthy environment.

ECO Comment:

MNR's public consultation process, including a mailing list and public notices in a local Clearwater Bay magazine, appears to have been thorough and complemented the minimal public comment period on the Registry.

MNR did not describe the potential social, environmental, and economic implications of the policy in its Registry proposal notice. These potential consequences should have been addressed in the notice. The environmental consequences of this policy decision appear, however, to be positive. The ECO has heard concerns from the public about inappropriate shoreline development. Shoreline and water quality deterioration are often irreparable. Development guidelines such as these appear to be one useful preventative approach.

Review of Posted Decision: Fish Community Objectives for Lake Ontario

Decision Information:

Registry Number:	PB8E3016	Comment Period:	30 days
Proposal Posted:	July 23, 1998	Number of Comments:	0
Decision Posted:	June 2, 2000	Policy Implemented:	August 1999

Description:

The purpose of this decision posted by MNR is to set the direction for management of the Lake Ontario fish community and its fisheries. The fish community objectives were drafted by the Lake Ontario Committee (LOC), a bi-national committee with members from the Lake Ontario Fisheries Unity of the New York State Department of Environmental Conservation (NYSDEC) and MNR's Lake Ontario Management Unit (LOMU). They were revised and published by the Commission in August 1999 as Special Publication 99-1 and will be reviewed and revised every five years to reflect changes in the ecosystem, and in science and stakeholder opinions.

The publication provides objectives for the three major ecological zones of Lake Ontario – the nearshore zone, the offshore pelagic zone and the offshore benthic zone. This was accompanied by a discussion of fisheries benefits, the associated uncertainty and risks, and a list of indicators to gauge progress. It also provides a set of resource management principles, tracks the history of ecological changes in the lake, describes the present fish communities and fisheries, and highlights the major factors that influence how the ecosystem functions.

The publication gives a detailed account of the fish species that are present and stocked in the Lake Ontario ecosystem, along with threats to their sustainability. It outlines the dilemma that exists in developing fish community objectives where significant conflicts are apparent between recreational and commercial interests and those of science and the environment. Representatives from recreational and commercial interests support developing the trout and salmon fisheries. However, some scientists and environmentalists tend to believe that this strategy may be risky, and prefer to promote biodiversity and stewardship of native self-sustaining fish populations and their surrounding ecosystem.

The management of alewife in Lake Ontario is very important for the management of the lake as a whole. Alewife is the most dominant biotic influence on fish communities in Lake Ontario and must therefore be factored into any decision-making that takes place. Alewife feeds on the larvae of many fish species, including trout, salmon and other native species and is also the principle food source for most large fish and fish-eating birds. According to MNR, fisheries managers increasingly recognize that a flourishing trout and salmon fishery and native species rehabilitation are, to a certain degree, mutually exclusive because of the pivotal role of non-native alewife and rainbow smelt in the fish community.

Implications of the Decision:
The fundamental challenge faced by the Lake Ontario Committee is the incongruity between the fish community objectives that stakeholders support and those that the scientific community predict are possible given the ecological trends in Lake Ontario. In the end, the LOC considered the social and economic values at stake and acknowledged the uncertainty, high risk and trade-offs associated with their decision. In spite of this, they concluded that "trout and salmon abundance should be maintained to provide quality fishing opportunities without putting excessive predation pressure on the alewife population." The Committee went on to state that it believes that the Lake Ontario Ecosystem is not yet sufficiently understood to rule out unequivocally the socio-economically desirable but possibly unsustainable objectives. MNR stated that the objectives as written are aimed at maintaining healthy fish communities for the purpose of increasing fishing opportunities and other human benefits.

Some argue that abundant alewives and viable trout and salmon fisheries may be incompatible with managing for native fishes. However, MNR points out that it is not scientifically certain that the trout and salmon and alewife populations are unsustainable or incompatible with native species rehabilitation. Moreover, MNR expressed doubt that alternative management efforts to collapse or destabilize the alewife population will encourage ecosystem rehabilitation and rehabilitation of native species. MNR points out that observations of recent year-classes of wild lake trout and increasing abundance of three-spine stickleback (a native offshore prey species) are evidence that managing for alewife is not necessarily incompatible with native fish restoration.

In its report, the LOC admits that scientific evidence shows that the size of fish community required to meet stakeholder preferences can be maintained only with a high degree of risk and may be unsuitable in the long term. By choosing to give priority to public use of the resource, the LOC may be placing the entire fish community at risk. The decision may have failed to anticipate the ecosystem changes that some scientists are predicting will occur within the next decade and may prove to be unsustainable in the long term.

MNR recognizes that it is maintaining an artificial fish population, consisting primarily of non-native prey species and stocked, non-native trout and salmon species. The maintenance of this system requires healthy populations of alewives and rainbow smelt, which in turn impedes the rehabilitation of native species. MNR's decision represents the fisheries management perspective, which is that an aquatic ecosystem such as Lake Ontario can not be considered healthy if it does not support productive fisheries. Due to the fact that it is an artificial system maintained principally for recreational fishing interests, MNR is willing to accept a higher degree of risk to ecosystem rehabilitation. This clearly represents a preference for fishery stakeholders. However, MNR insists that the risks associated with LOC's approach were communicated to the public.

Public Participation & *EBR* Process:
MNR did not receive any comments from the public during the comment period. However, according to MNR, the LOC conducted significant research and consultation prior to posting the proposal. In 1996, scientists met in two workshops to evaluate how key ecological processes and

management practices work together to shape Lake Ontario fish communities. During the winter of 1996-1997, MNR and NYSDEC presented information about the Lake in stakeholder workshops and a series of public meetings attended by anglers, charter boat operators, commercial fishermen, outdoor writers, and representatives from small business, local government and environmental groups. They also received 150 responses to questionnaires they created for workshop participants specifically to solicit further comment and later circulated a draft copy of the objectives for some final input.

According to MNR, the objectives represent a compromise between the updated scientific knowledge and public consultation, though they admit that often the positions could not be reconciled. Some of those members of the public who responded to the questionnaires complained, however, that the interests of those members of the public who participated in consultation activities carried out by NYSDEC and MNR were primarily representative of the fisheries industry and of the social and economic benefits of the salmon and trout fishery, rather than the views of a minority who favour native species.

MNR maintains that the public consultation process was inclusive, but MNR staff were unable to identify a significant sector of the public who supported unilateral promotion of native species. The majority of the public who responded preferred that MNR maintain the current salmon and trout species mix for stocking and at the same time promote native species. Without evidence of a significant contrary view, or an obvious alternative low risk management objective, the LOC decided to reflect the preferences in its final decision as expressed by most commenters.

SEV:

MNR prepared a detailed account of its consideration of its SEV statement when it came to its decision to approve the LOC report. According to MNR, the goal and objectives of MNR as outlined in its SEV are served by the objectives for the Lake Ontario fish communities as they reflect the values held by stakeholders as well as the need for healthy human and aquatic environments. MNR also outlined some guiding principles in this proposal that support the policy principles outlined in MNR's *Directions '90s*, including the need to manage the lake as a whole ecosystem; the role of the public; the contribution of stakeholders; the recognition of ecological limits to the amount of fish that can be produced and harvested from one ecosystem; and that stocked fish can contribute to the ecological function of the fish community. MNR mentioned the difficulty they encountered in trying to reconcile the scientific evidence about the state of the Lake Ontario ecosystem and the fisheries management preferences expressed by stakeholders. However, MNR concluded that the decision reached would contribute to the full array of benefits listed in its SEV that were expected to result from the accomplishment of its objectives.

MNR also listed the following specific purposes of the *EBR* that are supported by the decision:

- protection and conservation of biological, ecological and genetic diversity;
- wise management of natural resources; and
- active participation of stakeholders in the management planning process.

Finally, MNR committed to continuing assessment of Lake Ontario fish communities, monitoring of resource use, and measuring progress against indicators that were set for each fish community.

Other Information:
The objectives were drafted for each of the Great Lakes as required by The Joint Strategic Plan for Management of Great Lakes Fisheries. This plan was prepared by the Great Lakes Fishery Commission ("the Commission") in 1997. The Commission required that the objectives be consistent with the following goal: "To secure fish communities based on foundations of stable self-sustaining stocks, supplemented by judicious plantings of hatchery-reared fish, and provide from these communities an optimum contribution of fish, fishing opportunities and associated benefits to meet needs identified by society for wholesome food, recreation, cultural heritage, employment income and a healthy human environment."

The MNR also stated that the LOC will produce a "state of the lake" report every five years which will allow for review and, if necessary, revision of Fish Community Objectives. The analysis of indicators will be the principal determinant of attainment or non-attainment of the objectives, but decisions to modify them will also include input from stakeholders and professional judgements of scientists.

ECO Comment:
The unreasonable delay by MNR in posting this decision notice on the Registry is unfortunate and inconsistent with the goals of the *EBR* and MNR's SEV. Such delays must be avoided in the future to promote full public disclosure and participation in the decision-making process. However, the ECO does commend MNR's efforts in soliciting comments from the public prior to posting through questionnaires, workshops and the circulation of a draft copy of the objectives for further input. The ECO commends MNR for the process used and for working directly with the Commission, the NYSDEC and the public in coming to its decision.

With regard to the substantive decisions made by MNR through its LOC partnership, the ECO recognizes the challenges faced by MNR in balancing the environmental, economic and social interests in this situation. Despite this, the ECO remains concerned that the objectives adopted may pose risks to the restoration of native species in the long term. According to its decision notice, MNR and its LOC partners did recognize the importance of biodiversity to maintaining healthy fish populations and ecosystems and, as a result, chose to undergo a lengthy process in determining how to manage the fishery in Lake Ontario. MNR and its LOC partners also appear to have effectively considered the social and economic values at stake and met their responsibility to provide for public use of the resources. However, this decision may impede progress toward other objectives to rehabilitate native species. Moreover, in making this decision, the interests of fishers and charter operators who support the salmon and trout fisheries appear to have been weighted much more heavily than long-term planning for the resource and the Lake Ontario ecosystem. The ECO fears that the risks associated with this decision to balance predators and prey through intensive stocking of the Lake Ontario ecosystem will cause greater harm to the ecosystem over time.

Review of Posted Decision: MNR Northwest Region, OFAH, and NOTO: Final Recommendations for Fishing Regulations (Ontario Fishing Regulations [OFR] Divisions 20, 21, 22, 22a, 24, 30, 31, 32, 33, 34); O. Reg. 323/99

Decision Information:

Registry Number:	RB7E1002	Comment Period:	31 days
Proposal Posted:	October 6, 1998	Number of Comments:	1500
Decision Posted:	October 23, 2000	Regulation Filed:	May 7, 1999

Description:

In November 1997, the Ministry of Natural Resources (MNR) first posted a notice on the Environmental Registry outlining proposed changes to the Ontario Fishing Regulations, 1989 (OFR), of the federal *Fisheries Act* administered by the Department of Fisheries and Oceans (DFO). The changes applied to a broad area of Northwestern Ontario which spans from east of Lake Nipigon to the Manitoba and U.S. borders and is known as the Northwest Region. This region has a large fisheries resource base with approximately 75,000 lakes larger than 10 hectares. Recognizing that these are some of the best quality fisheries in Ontario and some of the best fishing opportunities in North America, MNR staff and representatives of the Ontario Federation of Anglers and Hunters (OFAH) and the Northern Ontario Tourism Organization (NOTO) formed the MNR-OFAH-NOTO Northwest Region Fisheries Committee. They saw the need to simplify, streamline and modernize sport fishing regulations to maintain sustainable, high-quality fisheries in the region.

The objectives of the Committee were to reduce the harvest of a number of species of fish; improve the conservation, diversity and sustainability of fisheries resources; and increase the social and economic benefits arising from these fisheries. The Committee developed recommendations for MNR and the DFO. Some changes were made to the OFR based on these recommendations. They reduce the number of walleye, sauger, northern pike, smallmouth bass, largemouth bass, lake trout, muskellunge, yellow perch and black crappie that anglers can catch and keep daily. They also restrict the size of these fish which may be kept; and in some cases the restrictions change based on the season. The Committee chose these fish species since they are highly valued and sought-after sport fish. The restrictions aim to protect these species during vulnerable periods and to protect mature breeding stock prior to their spawning season, while allowing for a reduced number of smaller fish for anglers to eat. MNR states that size restrictions were put in place to protect brood stock fish but still allow anglers to take one trophy fish home.

Some suggested changes were not adopted by MNR. For example, the Committee recommended that all revenues generated from the sale of Crown land camping permits to be allocated to the Fish and Wildlife Special Purpose Account for fisheries management. MNR decided not to adopt this recommendation and all revenues from Crown land camping permits continue to flow into the Consolidated Revenue Fund, the province's general revenue account. To encourage non-Canadians to stay overnight in Canada, the Committee proposed that non-residents who wish to keep the fish they catch must stay overnight at a provincial park or a tourist facility, or they must own property in

Ontario or be an immediate relative of an Ontario property owner. The Committee also suggested that non-residents who failed to meet these requirements should be required to practice "catch and release" fishing only. At the time, similar restrictions applied to the international border waters in a certain area of the province along the U.S. border. The impact of non-Canadian anglers on Canadian fisheries was raised as an issue during the public discussions on the regulations, but MNR decided not to adopt these suggestions.

The Regulation of Fishing in Ontario

Fishing in Ontario is regulated by the DFO through the OFR under the *Fisheries Act*. This is a result of the division of powers between the federal and provincial governments that is set out under the Canadian constitution and gives the federal government responsibility for sea coast and inland fisheries. However, subsections 43 (l) and (m) of the *Fisheries Act* allow the federal government to make regulations delegating some of its powers and duties to other persons. Subsection (m) allows the delegation of the power to issue a variance order to change regulations that set out fishing seasons ("close time"), fishing quotas and limits on the size or weight of a particular fish. This power is specifically delegated to the Minister of Natural Resources under subsection 14(1) of the OFR, and was used by the minister to issue a variance order for the Northwest Region. Here, the Committee's recommendations were implemented by MNR and DFO through Ontario Fishing Quota Variation Order 1999-3 and Ontario Close Time Variation Order 1999-3, which are instruments under the OFR.

MNR incorporated the changes made to OFR into provincial law by promulgating O. Reg. 323/99. This regulation restricts the number of fish that non-residents of Canada who are camping on Crown land can keep. Under the regulation, non-residents of Canada camping on Crown land must observe Conservation Licence limits (2 fish). It is an amendment to the Fish Licensing Regulation (O. Reg. 664/98) made under the *Fish and Wildlife Conservation Act*.

Implications of the Decision:

According to MNR, the anticipated environmental consequences of these changes will vary from positive (i.e,. healthier fish populations) to relatively neutral on a lake-by-lake basis, depending on the initial status of the resource. The anticipated social consequences of the proposals are expected to be positive as there is broad agreement among key users as to the merits of the proposals. OFAH and NOTO anticipate that anglers and the tourism industry will respond to the changes and will promote the live release of caught fish. The anticipated economic consequences are positive in that over time higher quality fisheries should provide additional angling and recreational opportunities, meanwhile still providing ample opportunities to catch and eat fish.

MNR chose to proceed by way of regulation to deal with these issues to allow for more openness, consistency and certainty while still providing the force of law. Since a regulation can be amended more easily and more quickly than an Act, MNR believes that a regulation will allow for efficient changes in the future should adjustments be required to meet the needs of the resources and client groups further, as compared to the more complicated process required to make a legislative change.

Public Participation & *EBR* Process:
The development of these fishing regulations began when the Committee first met in September 1997. They developed a series of recommendations for the regulations and published them the Registry on November 5, 1997, for a 30-day public comment period. The comment period was extended to March 1998 to address public concerns that there be adequate time to review the full impact of the proposals. During that time, there were extensive discussions and consultation with the angling public in northwestern Ontario.

The public was consulted in public meetings and through correspondence received by MNR staff. In this phase of consultation, 751 comments were submitted. These ranged from individual comments to completed questionnaires, petitions, and community and organization responses. Of these, 61 per cent generally supported the proposed changes and agreed with efforts to sustain the fisheries. Of the 39 per cent of respondents who were opposed to the proposal, many felt that the proposed increase of Crown land camping fees to $25 was too high, that it did not adequately deal with harvesting of fish by non-residents, and that shorter open seasons were another alternative. In response, the Committee proposed to extend the area subject to the International Border Water Regulations north to 51 degrees North latitude and east to the western boundaries, excluding Lake Superior. In addition, fees for Crown land camping by non-residents were maintained at previous levels and the Committee proposed that the Fish and Wildlife Special Purpose Account be established for revenues generated from the sale of permits to be used for fisheries management.

The proposal was republished on the Registry on October 6, 1998, with a 31-day comment period. Along with a notice on the Registry, MNR also published advertisements in newspapers in northwestern Ontario to invite the public's comments on these proposals for regulations and sent out questionnaires. In this second phase of public consultation, 749 responses were submitted. Of these, 61 per cent either expressed no opposition to the proposed closed seasons and possession limits for the various species of fish, or commended the Committee on its proposal. However, 70 per cent of respondents expressed concern about extending the area subject to the International Border Water Regulations but supported restricting non-resident anglers to the standard catch and possession limits set out for conservation licenses as set out in the "Recreational Fishing - Regulations Summary." Therefore, the Committee revised its recommendations to limit non-resident campers on Crown land, not including the area subject to the International Border Water Regulations.

The *Fish and Wildlife Conservation Act* is a prescribed act under the *EBR*. Therefore, any environmentally significant regulations passed under this act should be placed on the Registry for a 30-day public comment period. However, the Variation Orders made under the OFR are not prescribed under the *EBR* for the purposes of having to give notice on the Registry since the *Fisheries Act* is not prescribed for Part II of the *EBR*. Nevertheless, MNR did post both the new provincial regulation as well as the Variation Orders to the OFR in an effort to canvass comments from various interests and to fully inform the public about the amendments. While the development of these recommendations can be viewed as a matter of MNR policy, they were not required to be posted under the *EBR* and MNR should be commended for their extra efforts.

SEV:

According to MNR, it is committed to managing fish populations within ecologically sustainable levels. MNR says that it has recognized that many of the most popular sport fish species across the Northwest Region are facing increasing harvest pressure and, with the support of OFAH and NOTO, prepared this regulation to reduce harvest and stresses in the fishery. They anticipate that the benefits of the regulation will be reduced harvest pressure in the short term that will allow the promotion of the region as possessing a world-class fishery and attendant benefits to tourism and local communities in the long term.

MNR referred to two policy principles as outlined in its *Directions '90s* and incorporated in its SEV. MNR's SEV documentation for this decision outlined how these principles are served by this proposal:

- "Sustainable development relies on integrated management approaches which consider the full range of environmental, social and economic factors when decisions are made about the use of natural resources." This principle was considered in the decision to provide management options for all sport fish species, to avoid shifting pressure among species.
- "The development of our natural resources has - by definition - limits. These limits are defined by the finite capacity of our lands and waters." This was considered in the decision to move toward a sustainable harvest of fish stocks by reducing the total harvest of sport fish populations to within safe allowable levels.

MNR also believes that its consultation with two major user groups of the fisheries (NOTO and OFAH) provided valuable input regarding the social and economic impacts of the proposal. In addition, MNR has also provided for the monitoring and assessment of the success of the proposal through the planned monitoring of fish population status as part of District and Regional Fisheries Assessment projects.

Other Information:

O. Reg. 664/98 was also amended by O. Reg. 508/99, which was published as an information posting on the Registry on May 23, 2000 (RB9E1002). This regulation removes the requirement that, in order to keep the fish they caught, non-resident anglers fishing in the international border waters must stay overnight at a tourist establishment or with a relative who owns local property, unless they own local property of their own. This change stemmed from a complaint filed by the United States under the North American Free Trade Agreement against Canada with respect to the restrictions. Ontario and Canada sought to resolve the dispute without having the matter referred to an arbitration panel for a ruling, wanting to avoid a ruling against them. As a result, MNR agreed to remove the requirements. However, to account for the anticipated increase in the number of non-residents of Canada fishing on the Canadian side of the border, MNR reduced the daily catch limits for walleye, sauger and lake trout. These limits apply to all non-residents of Canada fishing in the area, regardless of where they stay. A variation order and regulation amending the OFR were also passed to complete the changes.

In addition, in May 2000, MNR posted an information notice about a change to the Ontario Fishery Regulations that modified the minimum size limits for one species of fish - the muskellunge ("muskie") - in eight of the 10 divisions that make up the Northwest Region (PB00E1007). This increases the general minimum size limit from 86 centimetres to 91.4 centimetres. This modification is intended to ensure the long-term sustainability of muskie populations, provide a diversity of high quality muskie angling opportunities, to streamline and simplify size-limit regulations for muskie, to protect and rehabilitate over-exploited muskie fisheries, and to consider introductions to establish new muskie fisheries. For certain lakes within those divisions the minimum size limits have been increased, based on a consideration of the current status of their muskie fisheries, the objectives the fisheries are being managed for, and/or other social, economic and biological data. Similar to the original variations, this change was made after consultations with NOTO and OFAH, as well as Muskies Canada.

ECO Comment:

This regulation represents the first significant change to fishing quotas in this area in 10 years. The change was necessary to keep up with the increasing number of anglers and the technology that allows anglers to catch fish faster and in greater numbers. MNR appears to have responded appropriately to recognizable signs of over fishing by providing management strategies for these sport fish species. They also attempted to ensure that the restrictions would be supported and promoted by the affected industries and interests by establishing a Committee in conjunction with OFAH and NOTO, and taking proactive steps to engage in broad public consultation.

The ECO commends MNR for the notice on the federal *Fisheries Act* variation orders on the Registry with a hypertext link in an effort to provide province-wide consultation. Although these variation orders are not prescribed under the *EBR,* since they were made under federal legislation, the changes work in conjunction with a prescribed Act and have significant consequences for a public resource. While the recommendations can be viewed as a matter of MNR policy, the *EBR* nevertheless does not require that they be posted on the Registry. This issue has come up before for MNR, and the ECO agrees with the way in which MNR has decided to handle this difficult jurisdictional issue. The ECO also commends MNR for undertaking two phases of public consultation and their use of the Registry to republish the proposal and encourage further public input. However, MNR failed to post the decision notice for more than 16 months, an unacceptable delay. O. Reg. 323/99 was published in the Ontario Gazette in May 1999, yet the Decision Notice was not published on the Registry until October 2000. MNR could improve this aspect of its Registry use.

Review of Posted Decision: MNR Policy Significant Wildlife Habitat Technical Guide

Decision Information:

Registry Number: PB00E6005	Comment Period: 45 days
Proposal Posted: March 14, 2000	Number of Comments: 18
Decision Posted: March 26, 2001	Approval Implemented: October 2000

Description:

The Significant Wildlife Habitat Technical Guide (SWHTG) was developed by MNR as an advisory support document to the Provincial Policy Statement (PPS). The PPS sets out provincial policy direction on matters that planning authorities such as municipalities, planning boards, the Ministry of Municipal Affairs and Housing (MMAH) and the Ontario Municipal Board (OMB) must "have regard to" when making decisions under the *Planning Act*.

The Natural Heritage policy of the PPS (Section 2.3) states that natural heritage features and areas will be protected from incompatible development. It says that development and site alteration will not be permitted in significant portions of the habitat of endangered and threatened species. But these activities may be permitted in "significant wildlife habitat" if it has been demonstrated that there will be no negative impacts on the natural features or the ecological functions for which the area is identified.

MNR used to review development applications and planning documents and consider their impact on significant wildlife habitat. As a result of the government's reform of the municipal planning system in 1996, MNR has a much reduced role and municipalities, MMAH and the OMB are now responsible for determining whether proposed developments and municipal official plans are likely to have negative impacts on significant wildlife habitat. MNR has developed manuals such as the Natural Heritage Reference Manual and the SWHTG under the PPS to provide assistance to municipalities in carrying out their responsibilities.

The SWHTG is a detailed manual with 18 technical appendices that sets out MNR's advice to municipalities on how to identify, describe and prioritize "significant wildlife habitat." It defines four broad categories of significant wildlife habitat:

- seasonal concentration areas
- rare vegetation communities or specialized habitats
- habitats of species of concern (such as "vulnerable species," since endangered and threatened species are covered under another part of the Natural Heritage policy, and are identified and mapped by MNR)
- animal movement corridors

The SWHTG:

- describes the sources of data to assist in identifying and mapping habitats
- suggests guidelines and criteria for evaluating and ranking habitats

- describes considerations for determining how much of each type of habitat to protect
- provides a compilation of technical support materials, references and sources of data

Implications of the Decision:
The SWHTG is an excellent compendium of information and advice, but its use is not mandatory. It is essentially a description of how MNR advises municipalities to identify, map and consider significant wildlife habitat. If municipalities were to follow the approach suggested, it is possible that consideration of wildlife habitat in planning decisions could improve substantially. Many municipalities, for example the Regional Municipality of Waterloo, Regional Municipality of Hamilton-Wentworth, and the County of Oxford, have already developed policies related to significant wildlife habitat and identified important natural heritage areas in their official plans. But many municipalities have not. Progressive municipalities may use the Guide. But MNR emphasized in its Registry notices, in the covering letter accompanying the document, and in the introduction to the Guide itself, that the Guide is "advisory only" and that municipal planning authorities have the discretion to use alternate approaches, provided they satisfy the intent of the PPS.

Public Participation & *EBR* Process:
The ministry distributed the draft SWHTG widely and provided an adequate comment period. The comments were generally positive, but raised a number of technical issues and more substantive policy concerns. The ministry appears to have seriously considered the comments, even those submitted after the end of the comment period. The ministry made many of the requested changes, and the Registry decision notice clearly described the editorial and technical comments and their effect on the final document.

The ministry did not, however, describe or respond to the fundamental policy issues raised by commenters about the roles and capacities of the ministry, conservation authorities and municipalities. These comments were submitted by staff within MNR District Offices, other agencies and municipalities which will be using the Guide. They suggested that neither the ministry nor the municipalities currently had adequate data to identify and map habitats, or the resources to carry out their roles as laid out in the Guide. Several submissions recommended that MNR reconsider its role and do more information gathering, mapping and analysis.

Comments from municipalities included:

> "...in the absence of in-office expertise...this document places considerable emphasis on consultation with MNR staff when identifying significant wildlife habitat. While in principle this is very positive, we would question whether MNR currently has the staff complement to be this accessible...."
>
> "Identification of significant wildlife habitat by municipalities is an extensive project. Most do not have the resources to carry out such a project. A consultant and/or conservation advisory committee or at least a working committee for the project is essential. Heavy demands will be placed on the MNR district ecologist."

> "...it now appears that the Ministry will be involved to a lesser extent in the provision of baseline biological information...Unfortunately, many local and Regional municipalities will not have the technical, financial or staffing resources to undertake such important work in a timely fashion. It is unlikely, for example, that the Region...could undertake such a major task involving field inventories, analyses and area evaluations. Thus, it may be difficult to identify significant wildlife habitat and to develop supportive policies for inclusion in planning documents. Your Ministry should reconsider its position on this issue and, with its wildlife expertise, partner with municipalities and local naturalists, in completing this task. Otherwise, the result may be the considerable down grading, if not abandonment, of the broader public good."

Comments from MNR District staff:

> "...one major concern with the manual is the reliance on District and Area Ecologists and Biologists as a source of information and mapping. This may be an unrealistic source as we do not have many of these habitats mapped or have enough knowledge of these species and habitat needs."
>
> "...despite all the excellent information contained in the technical guide, we are somewhat sceptical that any municipality will actually follow the recommended approach laid out in the guide....MNR needs to start identifying some of these areas and mapping them accordingly. Although the PPS suggests this is a municipal responsibility, MNR is the wildlife manager and we need to be able to provide more information to the municipalities on the wildlife front. This will require time, staff and money on our part to complete the necessary work."

SEV:

MNR's SEV briefing note concluded that no aspects of the decision conflicted with any provisions of the SEV, and that the Guide will further many of the goals of the ministry and the *EBR*. The ECO concurs with this analysis, but also cautions that the Guide would have to be implemented by municipalities in order to provide the expected environmental benefits.

Other Information:

In 1999 MNR finalized its Natural Heritage Reference Manual. Other related manuals have been released in draft form by MNR, and are currently being revised and finalized. The Development Application Review Manual, which was posted on the Environmental Registry as a proposal in February 1999, has still not been posted as a decision on the Environmental Registry, although it appears that it is in use by municipalities.

MMAH is carrying out a review of the Provincial Policy Statement, expected to be initiated in May 2001. Some of the issues raised during the consultation on this Guide may be addressed during the PPS review.

ECO Comment:
The Significant Wildlife Habitat Technical Guide is very comprehensive and contains sound ecological principles and guidance. Implementation of the Guide could increase protection of wildlife habitat. But use of this and other MNR manuals by planning authorities is not mandatory. There does not appear to be any incentive for municipalities to follow the approach suggested by MNR. The ECO has the same concerns about the advisory nature of the Guide that we expressed in our review of the Natural Heritage Reference Manual in the 1999/2000 annual report.

Comments from municipalities and MNR staff suggested that most municipalities do not have the capacity or expertise actually to follow the approach laid out in the Guide. One municipality pointed out that if the ministry is no longer carrying out the work described in the Guide, and municipalities can not take it on, the result could be a downgrading of the public good. If habitat is not identified or mapped, it can't be protected by any level of government or by decision-makers such as the OMB. Several of the commenters pointed out that although responsibility for implementing the natural heritage policies of the PPS has been transferred to municipalities, they still require data, technical support and training from MNR.

The Guide was prepared with significant input and review by stakeholders, and MNR made a number of significant changes to the document to address comments. The ministry distributed copies of the final document widely, and said that questions concerning the Guide could be directed to local MNR offices. But the ministry is not carrying out any training sessions to assist the municipalities in using the Guide.

The concerns related to the transfer of responsibilities, and the capability of various agencies to carry out their roles, could not be resolved through changes to the text of the Guide. These concerns are products the government's reform of the municipal planning system, including changes to the *Planning Act* and the PPS, introduction of the "one-window" planning system and the transfer of planning authority from the province to municipalities. These issues will likely be raised during consultation on the five-year review of the PPS. The ECO will continue to monitor this issue.

As recommended in last year's report, MNR should also finalize its related Development Application Review Manual and post a decision notice on the Environmental Registry.

Review of Posted Decision:
Presqu'ile Provincial Park Management Plan

Decision Information:

Registry Number:	PB5E4003	Comment Period:	195 days
Proposal Posted:	1995/09/22 1996/06/22 1999/02/17	Number of Comments:	2812
Decision Posted:	2000/11/17	Policy Implemented:	slated for 2001/01/17 but delayed due to *EAA* requests

Description:

The Presqu'ile Provincial Park Management Plan was completed and approved in October 2000 by Ontario Parks, a division of the Ministry of Natural Resources (MNR). The preparation of the Park Management Plan (PMP) followed three stages of planning and development:

- 1995-96 - *Presqu'ile Provincial Park: Background Information/Issues and Alternatives* document produced and distributed for public review;
- 1996-99 - *Presqu'ile Provincial Park Preliminary Management Plan* document produced and reviewed by the public; and,
- 2000 - *Presqu'ile Provincial Park Management Plan* was approved and a public inspection period provided prior to the slated January 17, 2001 Implementation.

Each year Presqu'ile Provincial Park is visited by approximately 250,000 people seeking outdoor recreation opportunities. Presqu'ile is a popular site for naturalists interested in observing and photographing bird and plant life in particular. The park's natural features also attract large migrant bird and butterfly populations and provide a unique and favourable habitat for tens of thousands of waterfowl. Park management must balance the competing values of human recreation and natural heritage protection. MNR has been trying to develop a PMP for Presqu'ile for over 20 years. However, the planning process which resulted in the approved PMP officially began in 1995.

As of January 1, 2001, when the Town of Brighton and the Township of Brighton amalgamated, the park lies entirely within the Municipality of Brighton. The park is located 4 km south of Brighton's town centre and 9 km from the Highway 401 interchange with Northumberland County Road 30. The boundaries encompass most of the 10 km Presqu'ile peninsula which is described as "a boomerang-shaped spit of sand and limestone that juts sharply south into Lake Ontario." The park is 937 hectares in area, 427 hectares of which extend into the surrounding water of Presqu'ile Bay.

The approved PMP is intended to guide the development, management, and operation of Presqu'ile Provincial Park over the next 20 years. Perhaps the most significant stage in the development of this Plan was the public response to the PMP. Ontario Parks identified the following proposals as the most significant issues that emerged from the public review of the Preliminary PMP:

- changing the park's water boundary in Presqu'ile Bay
- prohibiting motorboating in most park waters in Presqu'ile Bay
- adding Salt Point to the park
- closing the Calf Pasture Point boat launch
- managing the sand beach for both bird migration and beach recreation
- removing the picnic facilities north of the park store
- developing a cormorant management strategy after a five-year study
- recommending to MMAH that area municipal official plans appropriately identify the park's lands and waters, so that the impacts of development near the park area are assessed in accordance with provincial policy
- community involvement in plan implementation.

In addition, Ontario Parks conducted a separate review process which looked at waterfowl hunting in the park. On this particular issue, the Ontario Parks Board, (the 6 to 12 member body responsible for providing advice to the Minister of Natural Resources about the management of Ontario Parks,) adopted the recommendation that: *the Presqu'ile Provincial Park Preliminary Management Plan should call for waterfowl hunting to phased out over a period of no more than 5 years, provided that MNR, working in partnership with conservation organizations, develops alternative hunting opportunities for big water duck hunting.*

MNR has stated in the Foreword of the PMP that it considered both its Statement of Environmental Values and the *Beyond 2000* strategic directions document during the development of the approved PMP.

Implications of the Decision:

MNR states that this decision and the PMP define the role of Presqu'ile Park in achieving the four objectives of the Ontario Provincial Park system, i.e., protection, heritage appreciation, recreation, and tourism. The PMP also establishes the park goals and objectives, sets out long-term directions for the protection and management of the natural resources of the park, and provides direction for changing the park's boundaries and prescribing land and water-use zones.

It is the opinion of the ECO that the proposed five-year phase-out of waterfowl hunting, recommended in 1998 by the Ontario Parks Board to the minister, and adopted as policy in the approved PMP, *may* result in a loss of economic revenue to the park and surrounding area with the elimination of a substantial number of waterfowl hunters visiting the park, but that the environmental benefits and potential revenue production from other park uses outweigh this concern. In April 1999, the minister appointed a committee representing the Ontario Federation of Anglers and Hunters (OFAH), the Federation of Ontario Naturalists, and Brighton area waterfowl hunters and naturalists to advise on the feasibility of implementing the recommendation to phase out waterfowl hunting. In May 2000 this committee recommended the Sawguin Creek site as suitable "on the condition that MNR would provide appropriate funding for its development and that it would conduct public consultation, particularly with local land owners, to determine whether the site was acceptable."

OFAH is only one of several individuals and groups which are opposed to the elimination of waterfowl hunting within the park boundaries. In general, OFAH feels that the approved PMP has failed to recognize the value of "sustainable hunting, angling and boating activity as legitimate cultural heritage or recreational experiences worthy of preserving." OFAH is of the opinion that MNR/Ontario Parks has failed to fulfil the stated goals and objectives of the PMP. Comments from other individuals and interest groups were quite complimentary of the Park Management Plan's goal and objectives and its positive environmental implications through its strong natural heritage protection policies.

Public Participation & *EBR* Process:
MNR made excellent use of the *EBR* Registry to notify the public of proposals and decisions during the planning and approval process of the PMP for Presqu'ile Provincial Park.

- A notice of proposal was first published on the Registry in September, 1995, at the Invitation to Participate stage, with a 45-day comment period.
- A notice for review of the Preliminary Park Management Plan was re-published in June 1996 at the Review of Background Information/Issues and Alternatives stage, with a 45-day comment period.
- It was re-published twice in February 1999 to correct and update information; and re-published again in April 1999 to extend the comment period by 65 days, and again in June 1999 to extend the comment period by 77 days.
- The proposal was finally re-published again in late June 1999 to revise the comment period so that it would end on August 31, 1999, rather than September 15, 1999.
- In total, the proposal had a public comment period of 195 days. The Decision Notice on the approved PMP was published November 17, 2000, providing a two-month inspection period ending January 17, 2001.

In addition to the Registry postings, public and written notices were sent out in summer and fall of 1995 and a workshop held to identify planning issues; a visitors' survey was conducted in the summer of 1996; and a public meeting and open house on the Preliminary Management Plan was held in March 1999. The Registry notices also explained that there is an opportunity at any time during the park management planning process for interested persons to make a "bump-up" request to the Minister of the Environment that specific park management activities be designated for an individual environmental assessment under the *Environmental Assessment Act*.

The total number of comments received regarding the Preliminary Park Management Plan was 2,812 at the time the Decision Notice was posted on the Registry. No distinction was made as to the number of comments which were submitted as a direct response to the Registry postings. Of the 2,812 comments, Ontario Parks received 169 responses from 147 individuals and interest groups, and 2,409 form letters comprised of eight different types. An additional 234 comments were the result of comment sheets returned from those who attended the public meeting in March 1999. Ontario Parks produced a document entitled *Summary of Public Response* in October, 2000, which identified how public input was solicited and broke down the responses in terms of total responses and percentage in favour or opposed to the major proposals. The changes made to the Preliminary Park Management Plan that resulted from public responses, and the reasons for changes being made or not made, were provided in the document, *Ontario Parks Position on Major Issues*, released in November 2000. The Decision Notice on the Registry also highlighted some of these major issues and the changes to the Management Plan which resulted. The summary contained in the Registry Notice did not, however, include the discussion of waterfowl hunting, which is perhaps the most significant policy proposal of the major issues of interest to the public.

During the planning process, MNR posted Registry proposal notices stating that other relevant information pertaining to the Preliminary PMP was available. Specifically, the notice stated that in addition to the Ontario Parks Southeastern Parks Zone office in Kingston, copies of the Preliminary Plan could also be viewed at the Brighton Public Library. While electronic links to the document and additional information on Ontario Parks in general can be accessed via the Registry Notice, having hard copies of the Plan available at only two very localized sources is insufficient. It would be beneficial if plans affecting Provincial Parks were available, upon request, for viewing at various in not all MNR district offices throughout the province. An additional limitation on public participation via access to an electronic copy of the plan was that on November 17, 2000 (the date the decision notice was published on the Registry), MNR was having technical difficulties in getting the scanned file of the approved PMP posted on the ministry's own Web site. This problem was later fixed.

SEV:

The Foreword to the approved PMP states that during the development of the Plan, MNR considered both its Statement of Environmental Values and the *Beyond 2000* document. The SEV briefing note, however, indicates that the PMP reflects the strategic direction outlined in the MNR documents *Direction '90s* and *Direction '90s, Moving Ahead 1995*, the predecessors to *Beyond 2000*. This contradiction and the general terms of the SEV briefing note suggest that MNR followed a template-style fill-in-the-blanks response for its SEV consideration. This being said, the PMP and its goals and objectives do not appear to conflict with the ministry's SEV. The goal as stated in the SEV briefing note is to *contribute to the environmental, social and economic well being of the park and local area through the sustainable development of the park's natural resources.* This statement directly complements the overall goal of MNR: *to contribute to the environmental, social and economic well being of Ontario through the sustainable development of natural resources.*

The SEV briefing note does not adequately explain how social, economic and scientific considerations were taken into account and integrated into the Plan development process. In particular, the contentious issue of banning waterfowl hunting deserves far more description in terms of the biological data supporting the need to eliminate hunting of waterfowl. In addition, no discussion of the social and economic implications of this proposal was included in the body of the approved PMP, the *Ontario Parks Position on Major Issues* document, nor the *EBR* Registry proposal or decision notices.

Other Information:
Discussion with an Ontario Parks planner in February, 2001 indicated that the full implementation of the approved PMP, slated for January 17, 2001, has been delayed due to a number of "bump-up" requests reflecting a range of concerns under consideration by the Ministry of the Environment, under the provisions of the *Environmental Assessment Act.* The planner expects that those aspects of the PMP not subject to an appeal or "bump-up" request will proceed in the near future. MNR informed the ECO in July 2001 that MOE has since denied the requests.

The release of the approved PMP for public inspection in November 2000, and the corresponding 61-day comment period prior to the slated January 17, 2001 implementation have, however, been criticized by those in opposition to the contents of the plan and its alleged pro-naturalist agenda for two reasons. Firstly, the winter release and inspection period coincides with the time of year when the least amount of park users are in the vicinity and/or able to comment. Particular concern was raised that many so called "snowbirds" were excluded from the inspection process due to the ill-timed release of the PMP. Secondly, it was argued that Ontario Parks should have been more sympathetic to the municipal re-structuring taking place during the latter months of 2000. The newly amalgamated Municipality of Brighton came into being only as of January 1, 2001. It has been suggested that the new Council did not have sufficient time to consider and comment adequately on the approved PMP prior to the January 17, 2001 deadline.

Public interest in this proposal and the approved PMP was and continues to be very high.

ECO Comment:
MNR's use of the Registry should be commended. The public consultation process was augmented by appropriate comment periods and other forums for public involvement. MNR was helpful and informative in explaining that at any time during the park management planning process interested persons could request that MOE consider an individual environmental assessment. Nine individuals and/or interest groups have since followed up on this opportunity.

There were some weaknesses in MNR's handling of the decision. MNR could have made the Preliminary PMP and supporting documents more readily available, upon request, for viewing at other district MNR offices in order to enhance public access and involvement in the planning process. MNR should also ensure that all electronic links are operational at the time of posting notices on the Registry. In addition, MNR failed to discuss adequately within the PMP, the Decision Notice and other supporting documents, the social, economic and scientific reasons for, and implications of phasing out waterfowl hunting within the Park boundaries. This issue appears to be the most contentious of the Plan's proposals and it gets at the core of the recreation versus natural heritage protection values debate endemic to the Ontario Parks System.

MNR appears, however, to have incorporated public responses into the policies of the approved PMP and has revised some of the original proposals in light of public input. Nevertheless, recreational hunters, anglers and boaters do not accept the final version and criticize its natural heritage protection policies for the lack of recognition of the cultural heritage of these recreational activities in Presqu'ile's history. Likewise, the naturalists criticize the plan for not effectively eliminating the waterfowl hunt entirely as soon as an alternative area is determined, rather than allowing it to continue for five more years following identification of the alternate site. The possibility of reaching consensus on the issue seems doubtful at best, given that it has taken over 20 years to develop and approve the PMP. MNR has faced an uphill battle in its attempt to balance natural heritage protection with non-passive recreational pursuits such as hunting, angling, and boating in Presqu'ile Provincial Park.

Review of Posted Decision:
Revision of "Applications for Retrieval of Sunken Logs - Review and Approval Requirements"

Decision Information:

Registry Number: PB00E7002	Comment Period: 30 days
Proposal Posted: 2000/03/08	Number of Comments: 7
Decision Posted: 2000/04/17	Policy Implemented: 2000/04/13

Description:
MNR revised its procedure governing the retrieval of sunken logs from Ontario's waterways (see Overview of Procedure below). The new procedure, "Applications for Retrieval of Sunken Logs - Review and Approval Requirements," replaces one which had been in place since 1986. According to MNR, the new procedure streamlines the application process while promoting adherence to legislation protecting public and worker safety, fish and aquatic habitat, and water quality and heritage values. The procedure was revised to respond to an increase in the number of inquiries from divers and companies willing to retrieve sunken logs from Ontario lakes and rivers for their economic value (in 2000, nine small operations existed in Ontario, which generated an estimated total revenue of $6,400 for that year).

The revised procedure originates from a review process which began in 1998 (PB8E6006). At that time, the proposal was posted for a 30-day comment period commencing July 21, 1998. That proposal was re-published on February 11, 1999, with an additional 30-day comment period to provide the public with the opportunity to comment on the final draft of the proposal. Also at that time, and under that process, MNR proposed to review and renew both the policy "Salvage of Sunken Logs" and the procedure "Authorization to Salvage Sunken Logs." Two outcomes of the February 1999 review process were that only the procedure would be updated with the intent of replacing and rescinding the 1986 policy, and that a draft procedure would be adopted to govern the industry on a interim basis, until a new procedure could be finalized.

Overview of Procedure

A person or company (Applicant) who would like to retrieve sunken logs from Crown land (in this case from beneath the surface of a water body) must submit a project proposal (application) to a local MNR District Manager in accordance with the requirements of the MNR Procedure FOR 10 01 01 "Applications for Retrieval of Sunken Logs - Review and Approval Requirements." The application will be reviewed by various government agencies for compliance to their specific requirements. The applicant will be required to supply, for example, detailed information about the project and the area where operations will take place, provide appropriate Worker Safety and Insurance Board Clearance Certificates, acquire liability insurance and performance guarantees, meet certain Canadian Standards Association diving standards and participate in most public notification processes as outlined within the procedure. If the application is approved, the applicant will be required to enter into a Sale and Purchase Agreement with the District Manager, who will then issue a Land Use Permit (LUP) to the applicant for the sunken log retrieval activity. MNR does not permit applicants to retrieve sunken logs in all waterways in Ontario or during all times of the year, such as when fish are spawning.

Implications of the Decision:

According to MNR, the incremental impact of this procedure update is largely positive because of new and detailed review mechanisms to govern the industry. The risk of adverse environmental impact from this activity should be minimized through the application review procedure, according to MNR. The new procedure will require the applicants to submit a detailed account of the project area to the Department of Fisheries and Oceans (DFO) for review. DFO places limits on where this activity can occur and may require the applicant to provide sonar images of logs, analyses of substrate composition and other environmental studies. In addition, the Ministry of Environment (MOE) may require assessments of water quality, circulation patterns, plant and wildlife assessments and other studies. MNR believes that the likelihood of adverse environmental impacts occurring because of this activity should be minimized, as the industry is now more tightly controlled and is small in size (see Table 1).

Year	Volume of Wood (m^3)	Value (000s)
1999	182	$ 4.5
2000	256	$ 6.4

Table 1: Value of sunken log retrieval activity in Ontario for 1999 and 2000 according to MNR.

MNR contends the decision's economic effect is positive as it continues to permit a micro-industry in the province to operate. Whether there is any negative economic impact on tourism from any potential reduction of fish habitat is unknown.

MNR took into account a variety of social considerations. The decision affirms the oversight role of the Ministry of Tourism, Culture and Recreation (MTCR) in protecting the province's cultural heritage by including MTCR in the review process. This should ensure the protection of sites of historical and cultural significance in the province. Labour, safety, boating traffic and insurance provisions were also built into the new procedure.

Public Participation & *EBR* Process:

During the 30-day comment period, 14 comments or inquiries about the proposal were made. Half of these were requests for a copy of the updated procedure and the remaining seven were comments on the proposal. Two of the commenters supported the proposal and five requested changes. Two of the five comments requesting changes were incorporated (inclusion of a definition of the littoral zone and inclusion of Workplace Safety and Insurance Board requirements). The remainder of the comments requesting changes did not result in amendments (limiting insurance at $1 million; including a prerequisite of previous supervisory experience over and above applicable labour standards; including an established divers only provision), and explanations were provided. The summary of MNR's response to comments in the Registry decision notice was clear and meaningful.

Prior to this comment period, the draft procedure was subject to two 30-day comment periods in July 1998 and February1999 (PB8E6006), and was the subject of a workshop in November 1999. The workshop was attended by more than 70 participants, including industry representatives, government, and angling and outfitter interests. Based on the comments at the workshop, the draft procedure was modified, mostly in relation to "documentation requirements, and the government review and approval processes."

Overall, the consultation process was thorough. However, one shortfall in the *EBR* consultation process was the failure of MNR to make a copy of the draft revised procedure available on the Registry site electronically. A statement in the Registry proposal notice indicated that "the final version of the document is available electronically by clicking here" – that link provided only a map of MNR offices in Ontario, their addresses and phone numbers, and a suggestion that interested members of the public make an appointment to visit an MNR office to view the procedure. If requested by a commenter, the draft procedure was provided by MNR by surface mail.

In 2001, MNR is reviewing its Class EA for Small Scale MNR Projects, which will include those activities that are covered by Exemption Order MNR 26/7 of this Class EA (one of which is the retrieval of sunken logs). MNR must conduct public consultation as part of this review initiative. However, as of April 2001, MNR has not specified that sunken log retrieval will be one of the activities reviewed under this Class EA review process.

Also, public notification is required on a project-by-project basis by Exemption Order MNR-26/7 under the *Environmental Assessment Act*. A minimum 30-day notification period is required for each project. Under the public notification requirements of Exemption Order MNR-26/7, "the District Manager may request the Applicant to undertake the public notification process at the Applicant's expense." The District Manager also may request that the *EBR*'s Environmental Registry be employed as part of the public notification process, although in practice this option has not often been employed.

SEV:

MNR's goal as described in its SEV is to contribute to the "well-being of Ontario through the sustainable development of natural resources." If development activity has the potential to threaten "natural heritage or biological features," then the MNR will attempt to anticipate and prevent "negative environmental impacts before undertaking new activities."

MNR understands that the resource governed by this procedure is not sustainable, given that the resource supply is finite for all intents and purposes. However, MNR contends that the sustainability of the ecosystem in which sunken logs are found would be protected through the procedure's requirements and prohibitions. For example, sonar images of logs, substrate composition assessments of water quality, circulation patterns, plant and wildlife assessments and other studies may be required on a case-by-case basis before approval is granted. The procedure provides for a virtual ban on the removal of logs from the littoral zone (defined as 5 metres depth or less). Protection of the littoral zone is crucial as it is the portion of a water body where visible light penetrates to the lake or river bottom permitting plant growth and many important biological processes to occur. Damaging or eliminating the littoral zone of a lake or river could severely reduce the biological productivity of the water body.

The biggest weakness in MNR's review methodology was the apparent absence of scientific environmental impact studies specific to Ontario during the period the revision was undertaken. Currently, DFO is reported to be undertaking studies of the impact. It is unclear whether studies would have resulted in further changes to the procedure, but the absence of these studies is troubling.

Other Information:

Sustained Criticism of Decision

One member of the public has repeatedly criticized this decision since it was made. His principal criticism is the threat this activity could pose to fish habitat. Other specific criticisms of this respondent are that not enough is known scientifically to permit this activity (he has witnessed infractions occurring by practitioners; and enforcement of compliance with the procedure is weak. MNR indicates that this citizen did not comment on any of the proposals when they were posted on the Environmental Registry.

With regard to the commenter's principal criticism, MNR's decision notice indicates that the procedure will require "adherence to legislation protecting public and work safety, fish and aquatic habitat, and water quality and heritage values." His criticism of the lack of scientific study appears to be valid and has been corroborated by a DFO official. This represents the most significant gap in the procedure renewal process as conducted by MNR. Regarding alleged infractions and enforcement, his complaint about an operation on Toad Lake was investigated by officials of MNR and DFO and found not to be of significance.

Operational Considerations

MNR is not authorizing the retrieval of logs in all lakes in Ontario nor is it allowing all of the logs to be retrieved in any particular lake. According to MNR, approximately two-thirds of the 92 applications received in 1999 and 2000, and reviewed under the new procedure, have been rejected

Enforcement Provisions

To regulate this activity MNR can issue fines and stop orders under the *Public Lands Act* (*PLA*), as a sunken log retrieval operator is required to obtain a Land Use Permit (LUP) under the *PLA*. MNR indicates in the procedure that should a permit holder not comply with the conditions of the LUP or the Attached Sale and Purchase Agreement then enforcement action will be taken.

In the new procedure MNR recognizes that it is the LUP issuer, and therefore the agency principally responsible for ensuring operator compliance with permit conditions. But it also recognizes that other provincial ministries and the federal government have the ability to monitor log retrieval operations for activities which may be in contravention of their respective legislation. Further, MNR indicates that it is not expected to monitor sunken log retrieval activities in terms of their compliance with other agencies' legal requirements. Companies that are operating legally are encouraged to report to the District Manager any suspected illegal operations. Finally, MNR notes that civil actions or criminal code prosecutions could flow from the theft of sunken timber.

ECO Comment:
The ECO recognizes that the potential for harm to fish or fish habitat is not completely eliminated by the revised procedure and will continue to monitor this issue. Adverse environmental impacts (e.g., reduced or lost fish breeding grounds) could still occur, particularly on a localized basis in the course of applying the new procedure, despite its rigorous requirements. MNR did not study, nor await the completion of studies by the federal Department of Fisheries and Oceans, on the effect of this activity on fish habitat before it proceeded to revise the procedure. The ECO believes that MNR should have followed a precautionary approach and postponed its final decision until additional studies were available.

MNR's review process to renew the procedure was thorough. MNR received comments and incorporated public input through the Environmental Registry and through a stakeholder workshop. MNR developed the new procedure in two steps by first trial-testing the procedure on an interim basis for one harvesting season, then finalizing it with the knowledge acquired from trial period. Both draft and final procedure were subject to the *EBR* public comment process.

The ECO has a number of concerns about the approach to achieving environmental compliance within this industry, especially since enforcement of environmental legislation relevant to this activity is fragmented across several provincial ministries and the federal Department of Fisheries and Oceans. A vigilant enforcement effort would be required to ensure that operations are being carried out according to the procedure. Such an effort could include audit certification, third party verification and spot checks of operations.

Without a more detailed description of the compliance strategy to accompany this procedure, the ECO has no way of knowing if the procedure's application and review process will confine environmental disruption to a negligible impact. The consequences of failing to achieve the objectives of the procedure could be fish habitat destruction, degradation of water quality and the reintroduction of contaminants buried by sediment.

Review of Posted Decision:
O. Reg. 152/00 Amending *O. Reg. 670/98 (Open Seasons - Wildlife)* Made Under the *Fish and Wildlife Conservation Act* - Deer Hunting in Wildlife Management Unit 44 (Cockburn Island)

Decision Information:

Registry No: RB9E2001
Proposal Notice: December 22, 1999
Decision Notice: April 14, 2000
Regulation Filed: March 3, 2000

Description:

O. Reg. 152/00 changes the duration and nature of the deer hunting season in Wildlife Management Unit (WMU) 44, on Cockburn Island, under O. Reg. 670/98. The final regulation, which came into effect for the November 2000 hunting season, allows bow hunters to hunt for a two-week period prior to the 13-day gun hunt authorized under the *Fish and Wildlife Conservation Act.* The two hunts will be separated by nine days instead of the two days originally proposed in the Registry proposal notice. The new regulation also allows non-residents of Ontario to hunt in both the bow and gun hunts in WMU 44. Prior to this regulatory change, hunting was open only to residents.

The land in WMU 44 is privately owned. The changes to O. Reg. 670/98 were in response to a request from some land owners to establish an archery-only season for deer hunting. These land owners suggested that the archery hunt be in addition to the 13-day gun hunt presently held on the island. Approximately 80% of the island is owned by one individual, who recently increased the price of hunting on his land by $250, resulting in a reduction in the number of deer hunters in WMU 44. The Registry notice states that MNR expects this will result in a decline in the number of deer hunters on the island, and to compensate for this decline, MNR has decided to open an extended hunting season to bow hunters in order to control the deer population.

MNR also states in the Registry notice that the majority of WMUs in the area of Ontario comprising the core habitat of deer have hunting seasons that are open to both residents and non-residents, and that the individual who owns 80% of the island intends to monitor the health of the deer herd on his property.

Implications of the Decision:

In the Regulatory Impact Statement included in the Registry notice, MNR noted that there would likely be some increase in deer mortality, but that this would be minimal because archery hunters have very low success rates compared to gun hunters. Because in the past MNR has allocated antlerless deer tags in WMU 44 conservatively, MNR officials believe that "some additional harvest of deer could occur and total mortality would still be within the limits of ecological sustainability."

MNR has stated that allowing non-residents to hunt in WMU 44 will ensure that the deer population does not exceed its carrying capacity and adversely affect the ecosystem of the island. MNR also expects that the proposed regulation will have a positive impact on the community by increasing non-resident visitors and bringing new revenues to area businesses.

Public Participation & *EBR* Process:
This proposal was posted on the Registry for a 30-day comment period and 17 comments were received. Twelve commenters expressed support for establishing an archery-only hunt. However, several of these people had concerns about how the ministry would establish such a hunt. Six commenters supported a non-resident hunt while four were opposed to it. One commenter opposed the whole proposal because of the time and money that Ontario taxpayers have spent maintaining the deer herd.

Two commenters expressed concern that early archery hunting would reduce the success rate of the gun hunt. Other commenters felt that a quality hunt could not be sustained if non-residents were allowed to hunt, due to the additional pressure such an influx would place on the ecosystem. Two commenters were concerned about property protection. Some commenters expressed concern that if the season were to open up early in WMU 44, the enforcement on nearby Manitoulin Island (WMU 43A & 43B) would decrease or, conversely, that there would be inadequate enforcement in the WMU 44 area. Several individuals were also concerned that bow hunting would increase the number of wounded deer.

MNR responded to these concerns in its decision notice. The period between the end of the archery hunt and the beginning of the gun hunt was extended from two to nine days to facilitate the success of the gun hunt portion of the season. The ministry further felt that the property protection issue could be handled by the property owners on the island by denying permission slips to prospective hunters. With respect to the increased hunting pressure, the ministry contended that: WMU 44 has had one of the highest success rates among gun hunters for deer in Ontario; the total mortality which will result from implementing the proposed changes will remain within the parameters of that which is ecologically sustainable; and the influx of U.S. hunters will not be great enough to affect the deer hunt due to the ample opportunities available in that country for similar activities. Regarding the lack of staffing by the ministry and its ability to control and regulate the hunt, the ministry contended that presently the bow hunt on WMUs 43A & B is managed concurrently with the gun hunt on WMU 44, and MNR will be patrolling both areas as it has previously done. MNR also stated that there is no evidence that a bow hunt would result in more wounded deer.

SEV:
MNR stated that it considered its SEV in making the decision, and concluded that opening the hunting season to bow hunters and non-residents will prevent the negative environmental impacts that would result if the deer population were left to grow unchecked. The ministry also stated that, because of the relatively low success rate of bow hunters, the impact of allowing this activity will be minimal.

MNR noted that there will be benefits associated with this regulation, such as an increase in revenue to the Fish and Wildlife Special Purposes Account and associated businesses. Also, archery-only seasons are in place in the majority of WMUs with harvested deer populations such as WMUs 43A

& B and WMU 45 (St. Joseph Island). MNR added that this proposal does not conflict with any commitments set out in the ministry's SEV.

MNR believes that the proposed regulation will serve the purposes of the *EBR* by providing a more diverse and sustainable use of the deer herd on Cockburn Island, while ensuring the conservation of the existing habitat and species diversity. The changes to the regulation will be monitored for the 2000 hunting season by MNR and by certain land owners in conjunction with the ministry. MNR maintained that adjustments to the regulation will be made if required in the future. This is consistent with the sustainable development goals set out in the ministry's SEV. As long as the hunt program is continually monitored, it should "ensure the long-term health of the ecosystem" as set out in the SEV objectives.

ECO Comment:

The 30-day comment period on the Registry was sufficient. Everyone involved in the debate was heard, and the ministry responded to concerns raised by residents of WMU 44 and non-residents.

Review of Posted Decision:

Amendment to Forest Operations and Silviculture Manual and Scaling Manual to address certain wood utilization issues: amendment to Ontario Regulation 167/95 made under the *Crown Forest Sustainability Act*

Decision Information:

Registry Number: RB9E6006	Comment Period: 35 days
Proposal Posted: 1999/07/09	Number of Comments: 4
Decision Posted: 2000/06/12	Regulation Filed: May 12, 2000

Description:

The decision permits forest companies, under certain conditions, to leave "merchantable timber" at a harvest site following timber harvesting operations on the basis of "market-related issues associated with certain species or products" or to "satisfy silviculture and habitat requirements." The Registry notice notes that the driving forces behind this amendment, as described by MNR, were:

- "From time to time, forest products companies conducting harvesting operations in Ontario's Crown forests wish to leave timber that is otherwise merchantable at a harvest site, because a market for the species does not exist, the quality of timber at the site is insufficient to be marketable, or the companies are seeking to meet specific objectives set out in an approved forest management plan (FMP)."
- "A joint Forest Industry / MNR Utilization Task Team was established in 1997 to examine issues related to wood-utilization. It has recommended that the Forest Operations and Silviculture Manual and Scaling Manual be amended to provide flexibility to address wood-utilization issues through FMPs."

To realize these policy goals, O.Reg. 167/95, which gave legal recognition to two forest practice manuals, the *Forest Operations and Silviculture Manual* and the *Scaling Manual,* was amended. The Manuals require all forest operations to meet "minimum utilization standards" and defined leaving merchantable timber under certain circumstances as a wasteful practice. MNR defines minimum utilization standards in its Forest Operation and Silviculture Manual in the following terms:

> "Wasteful practices are defined in relation to the minimum utilization standards for the province. These standards have been designed to promote good forest management by ensuring optimum utilization of forest products on harvesting operations. Poor utilization of forest products may result in loss of revenue, lower productivity or higher regeneration costs or may cause inferior or undesirable trees to remain on the site. The minimal utilization standards must be followed on all forest resources operations. No person shall commit wasteful practices in forest operations."

MNR's Scaling Manual describes the species, characteristics, dimensions and restrictions of leaving merchantable fibre for each of the five types of wasteful practices.

This decision amends the manuals to require all forest operations to continue meeting minimum utilization standards "unless otherwise described in an approved FMP." The effect of this amendment is to provide forest operators with a means to by-pass the minimum utilization standards, provided the operator has received approval by MNR through the Forest Management Planning (FMP) process.

A key point for interpreting the decision is that "merchantable timber" left at the harvest site may take the form of either *felled trees* or *trees left standing*.

Implications of the Decision:
MNR's Regulatory Impact Statement (RIS) anticipated that the "environmental consequences of the proposal are expected to be positive," based mainly on the possibility that timber without market is left intact as habitat. In economic terms, the decision was anticipated to be positive for the forestry industry since the industry could avoid the cost of further processing after harvesting a product without market. MNR also notes that the amendment helps resolve inter-district conflicts, e.g., the conflict whereby a company working in one district is able to meet the minimum utilization standards, but in another district the same company is unable to because of species mix or location of mills or a combination of matters. MNR's RIS anticipates the social consequences to be neutral.

An example of how this amendment might apply to a harvesting operation was included in MNR's documentation of its SEV consideration for the decision review:

> "Harvesting operations within Ontario's forests often result in merchantable trees being left at a harvest site either because markets for the particular species or its quality do not exist or they are required to meet specific objectives of a forest management plan. For example, portions of some forest stands harvested within the Great Lakes-St. Lawrence often contain low-grade hardwood tree species that are not transported to processing facilities because they currently have no commercial or market value. Likewise, commercial mixed wood conifer stands within the Boreal Forest may contain unmarketable poplar and white birch trees that are left at the site in order to make harvesting the conifer component of the stand economically feasible."

In areas where selective logging is practiced, unmarketable timber has a reasonable likelihood of being left standing and continuing to provide habitat and biodiversity benefits, although such benefits do not necessarily disappear if trees are felled (for further details see "Other Information" ahead). In areas where clear-cutting is used to harvest timber it is quite possible that large numbers of trees without market value will fall in the course of logging a site. If these trees are left on site where they fall, they could still provide some habitat benefits. If the timber is left stacked by the roadside environmental benefits will diminish greatly and the appearance of wasteful practice will arise. A very substantial portion of forest harvesting operations in the Boreal Forest region practice clear-cutting.

Testimony at the Class EA for Timber Management on Crown Lands in Ontario public hearings suggested that significant amounts of timber are felled and abandoned on-site in timber operations and that the practice is considered offensive by members of the public. However, the Class EA hearing panel felt that, at that time, there was no credible improved practice to substitute and they relied on the existing MNR prohibition against wasteful practices.

In its 1999-2000 annual report, the Provincial Auditor noted that wasteful timber harvesting practices continue to be a problem, as MNR was failing to prosecute a large number of contraventions of O. Reg. 167/95. This report was based on audit work carried out by the Provincial Auditor in 1999 and early 2000, during which MNR's proposal was under consideration.

While MNR has indicated that there is a habitat-related basis for this amendment to the forestry manuals by way of certain habitat guidelines, the ECO believes that the impetus for this amendment relates more to accommodating market issues. MNR should have made this aspect of the amendment process clearer to assist the public in understanding the primary purpose of this amendment.

Public Participation & *EBR* Process:

The proposal was developed by a joint Forest Industry/MNR Utilization Task Team. The comment period was 35 days. No other public consultation beyond the *EBR* process was carried out. An opportunity for the public to comment on the practice *on a case-by-case basis* exists through the forest management plan (FMP) process as forest companies can leave merchantable timber only if they have approval to do so under a forest management plan. The public has several opportunities to comment on individual FMPs before they are approved by MNR. In this manner, the public will have an opportunity to raise concerns about plans to leave merchantable timber at specific sites.

Four submissions were received when the proposal was posted on the Registry. The primary concern of commenters was that the amendment would allow "wasteful practices" to occur. Commenters suggested that the proposed practice allowed by this amendment could be difficult to distinguish from a "wasteful practice" and that the wording was ambiguous. The practice being permitted appears to be wasteful in both economic and environmental terms, though it would not be considered as such by the forestry industry or by the revised planning manuals. One of the commenters raised the issue of how the determination of "no market" would be made, as this assessment would determine which trees go to market and which get left behind.

MNR agreed to work with a representative on behalf of the commenters to re-word the proposal and incorporate some of their concerns. The new wording of the proposal was presented to the Provincial Forest Technical Committee, as requested by a commenter, before the proposal went on for ministerial approval.

MNR did not explicitly indicate how it addressed all concerns raised, however. For example, a commenter suggested including a provision that "only standing trees should be considered for leaving on site." Other commenters expressed concern over the practice of leaving high stumps and lodged trees behind and the possibility of these practices increasing fire hazard. The decision does not indicate how these comments were addressed; however, subsequent to posting the decision notice, MNR clarified that the practices of leaving high stumps and lodged trees were never part of the policy proposal.

Other Information:

Habitat and Biodiversity Considerations

MNR indicates that the minimum utilization standards as previously written conflicted with habitat protection objectives spelled out in two MNR guidelines, *Forest Management Guidelines for the Provision of Pileated Woodpecker Habitat* and *Forest Management Guidelines for the Provision of Marten Habitat.* Consequently, an amendment to O.Reg.167/95 would be required to permit the apparent wasteful practices required to meet these guidelines.

The marten (a small fur-bearing mammal) requires a variety of forest-based habitats for its survival. Maternal dens are typically found in the cavities of dead and living trees or fallen logs. Summer resting areas include the canopies of trees. Winter resting areas include cavities created by large stumps and logs. Foraging habitat includes that of the hollow spaces created by coarse woody debris (branches, bark, trunks and logs lying on the forest floor). Some of the recommended practices to maintain marten habitat include: a forest dominated by spruce, fir or cedar or mixed forest type; a canopy closure of conifers of greater than 50%; trees at least 15 metres in height (approximately 80 years old); and maintaining 10-20% of the total forest in suitable conditions. The recommended number of trees left unharvested is at least 6 dead or declining trees per hectare, with at least two of these exceeding 30 centimetres at breast height. Leaving slash on-site is preferred to moving it to roadside.

Scientific evidence suggests that the pileated woodpecker requires a certain density and quality of forest stand to survive. MNR's guideline for this species specifies that forest operators should leave 6 cavity trees per hectare on all selection, shelterwood, seed tree, and clearcut harvest blocks. All cavity trees should be at least 25 centimetres diameter at breast height. At least one cavity tree per hectare should be greater than 40 centimetres diameter at breast height. According to MNR, the pileated woodpecker guidelines are to be used on Crown land throughout the Great Lakes-St. Lawrence (GLSL) forest of central Ontario. In the transition zone between the GLSL and boreal forests, either the pileated woodpecker or the marten guidelines must be applied, although both may be applied.

MNR staff maintained that an operator who tried to follow these guidelines could be charged with conducting a wasteful practice under O. Reg. 167/95, (i.e., in the absence of an amendment to the Scaling Manual and the Forest Operations and Silviculture Manual). Thus, MNR considered the guidelines to be one of the bases for the amendment.

Wood Utilization Task Team

The Forest Industry/MNR Utilization Task Team was a joint MNR/Industry body set up to "develop direction for managing local utilization issues and circumstances, consistent with the CFSA [*Crown Forest Sustainability Act*], regulations and sustainable forest practices and which provides flexibility in our forest management planning and compliance planning processes to allow due consideration and fairness in dealing with market conditions." The Team was made up of 10 representatives from MNR and 10 representatives from the forest industry. No ENGOs or outside parties participated. The final report of the Task Team *Towards Resolving Utilization Issues/A process to Manage Unutilized Fibre* dwells on industry and market-related issues. For example, the 10 recommendations in the report deal with:

- ensuring consistency of definitions between the Scaling and Forest Operations and Silvicultural Manuals;
- ensuring that Regional Wood Supply Strategy Teams examine and evaluate trends in utilization issues, including determining the extent of the problem;
- investigating the coordination of harvest operations to ensure efficient utilization of available forest resources harvested;
- demonstrating that no market exists for certain species;
- preparing annual work schedules outlining and addressing utilization issues;
- ensuring Regional Director approval is obtained and MNR staff in adjacent regions are aware of implications of modified operations when a Forest Plan Amendment is required to resolve a utilization issue;
- appealing to the scientific community for research into the relation of utilization to sustainability and the development of criteria and indicators of sustainability;
- continuing to regard utilization issues related to a company's merchandising methods as subject to existing utilization standards;
- establishing an industry /MNR forum to meet annually on utilization issues;
- determining what portions of the final report be developed into procedures and guidelines.

The report does not deal with habitat issues, habitat protection guidelines, discuss any specific species or habitat, nor make a recommendation on any of the aforementioned.

SEV:

MNR's Statement of Environmental Values' Briefing Notes indicate that MNR considered its SEV in making this decision. However, the degree to which this decision is consistent with MNR's SEV depends very much on how the practices permitted by the amendment are conducted; these practices will be defined specifically during the forest management planning stage (see "Public Participation and *EBR* Process"). If most trees without market value are left standing after logging an area, then the decision is quite consistent with the MNR's SEV. Trees left standing could be consistent with the MNR objective:

- "to ensure the long-term health of ecosystems by protecting and conserving our valuable soil, aquatic resources, forest and wildlife resources as well as their biological foundations."

If most of the trees without market value are felled and left on the ground, or even worse, at roadside, after logging, then the decision is not consistent with the ministry's SEV references to stewardship and science:

- "the ministry has a stewardship responsibility on Crown land and will ensure that development decisions recognize alternative opportunities and implications, resource use occurs within a framework of well defined rights and responsibilities, and that misuse is penalized;"
- "allocation of available resources among alternative uses will be based on the best available information and science and will also recognize the full range of social, economic and environmental values of the resources, and that, in some cases, no development may be the best decision;"

ECO Comment:

The ECO notes that there are two divergent views on the implications of this regulatory amendment. On one hand, some members of the public and environmental nongovernmental organizations (ENGOs) view the practice of leaving unmarketable timber on-site as felled trees as wasteful. On the other hand, MNR or forest industries may not view this as a wasteful practice, in part because of the cost of handling and processing timber without markets. If timber is left on-site, *standing*, then the practice is much less likely to be viewed as wasteful by any interest.

Biodiversity and habitat protection by definition require that many elements of an ecosystem remain intact, not merely select species deemed to be unwanted for human purposes. MNR's proposal did not indicate a need to leave marketable trees standing for habitat and biodiversity purposes. Even though this would be seem to be desirable for forest regeneration (i.e., maintaining some of the more desirable tree species to help re-establish the forest after harvesting). In contrast, most if not all, "unwanted" varieties of trees (e.g., poplar and birch) may need to be felled in order to avoid jeopardizing silviculture objectives as the forest renews. Trees felled and left on-site have some habitat benefits, whereas trees left standing provide habitat benefits as well as erosion control.

The ECO notes that clarifying the description of this proposal and specifying its principal impetus would have greatly assisted the public in understanding the new direction brought about by this amendment. For example, clearly articulating the roles of market factors as well as biodiversity and habitat factors and their relative importance should have been undertaken in this process. Furthermore, MNR should have made an effort to explain how the Forest Industry/MNR Utilization Task Team decided to weigh market factors against biodiversity and habitat factors. Also, the Task Team should have included members of the public and environmental organizations to ensure that a variety of interests were involved in the decision-making process. These inclusions would have greatly improved the transparency of this process and MNR's accountability to the public.

In its proposal and decision notices, MNR should have described the specific habitat and biodiversity provisions that it was trying to advance though this amendment. The vagueness of the references to the ecological underpinnings of this amendment may have led members of the public to the conclusion that there was little basis for these claims. The ECO will monitor how this regulatory change is implemented.

3. Ministry of Municipal Affairs and Housing Decisions

Review of Posted Decision: MMAH Instrument
Denial of the Official Plan Amendment for Marshfield Woods

Decision Information:

Registry Number: IF00E0034	Comment Period: 30 days
Proposal Posted: December 28, 2000	Number of Comments: 76
Decision Posted: March 12, 2001	

Description:
In March 2001, MMAH denied approval of a proposed Amendment to the Official Plan (OPA) for the Township of Colchester South, now part of the Town of Essex. The proposed amendment would have redesignated approximately 79 hectares (195 acres) of land from "Agricultural" to a new designation called "Natural Environment/Golf Course," to permit the development of a golf course. The Council of the Town of Essex had adopted the proposed amendment to the official plan in November 2000, and then applied for MMAH approval under S. 17(34) and S. 21 of the *Planning Act*.

MMAH said in its decision notice that it denied approval because the proposal did not have appropriate regard to the policies of the Provincial Policy Statement (PPS). The ministry said the application proposed development within a Provincially Significant Wetland (PSW), contrary to the PPS. No further information about its reasons was provided by the ministry in its decision notice, but the ministry provided its written explanation for the refusal to the ECO upon request. MMAH denied the application because it did not have appropriate regard to a number of the PPS policies, including those related to significant woodlands, significant wildlife habitat, and the diversity of natural features and connections.

Background:
The PPS sets out matters of provincial interest that planning authorities such as municipalities, MMAH and the Ontario Municipal Board (OMB) must "have regard to" when making decisions under the *Planning Act*. Section 2.3 of the PPS states that natural heritage features and areas will be protected from incompatible development. It says that development and site alteration will not be permitted in significant wetlands south and east of the Canadian Shield. Development and site alteration may be permitted in areas of fish habitat, significant woodlands, significant wildlife habitat and significant areas of natural and scientific interest, if it has been demonstrated that there will be no negative impacts on the natural features or the ecological functions for which the area is identified.

The lands subject to the development proposal cover a large portion of the Marshfield Woods, located just north of Harrow. It is one of the largest remaining natural areas of its kind in southwestern Ontario. MNR says that the site is located in the extreme southwestern portion of Ontario in the Carolinian Canada zone, an area which has lost over 90% of its wetlands and contains only 3% forest. The environmental significance of Marshfield Woods has been recognized for many years, but it was first formally designated as a regionally significant ANSI and an Environmentally Significant Area (ESA) by the Essex Region Conservation Authority in 1994. The Ministry of Natural Resources (MNR) identified Marshfield Woods as a Provincially Significant Wetland in May 2000. MNR's comments to MMAH on the proposal concluded that development of a golf course on the site would result in:

- the loss of 47 hectares of provincially significant wetland
- loss of more than 47 hectares of interior forest bird habitat
- impacts on or the loss of up to 12 provincially significant plant species, 3 locally significant plant species and 2 provincially significant animal species
- impacts on hydrological functions.

An earlier proposal for a golf course on the property was initiated in 1998. The proponent (the Hearn Group) appealed directly to the OMB. The Hearn Group began construction activities, including clearing trees, just before the pre-hearing, which was scheduled for February 2000. In its decision on a request to halt the logging, the OMB said that, like the Town of Essex, "the board's hands are similarly tied" in trying to stop logging at Marshfield Woods. It said there were no legal means to prevent tree-clearing on agricultural lands, and stopping it "would be infringing on the Hearn Group's property rights." That proposal was withdrawn by the Hearn Group in May 2000 when the lands were designated a PSW by MNR, just before the scheduled OMB hearing.

In late 2000 the proponent submitted a new application to the Town of Essex. Town Council said that they had no choice but to approve the proposed golf course, because the proponent had threatened to cut every last tree if he were denied approval. Council adopted the proposed OPA on November 6, 2000 and submitted the application to the Ministry of Municipal Affairs and Housing for its approval. The proposed OPA submitted by the Town of Essex to MMAH was the proposal posted on the Environmental Registry for public comment in late December 2000.

Several parties, including local residents, The Friends of Marshfield Woods and the Essex Region Conservation Authority objected to the municipality's adoption of the OPA. Subsequent to the ministry's decision to deny the OPA, both the Town of Essex and the proponent appealed the ministry's decision to the OMB. A hearing on all the appeals is pending.

Implications of the Decision:

The ministry's decision means that the landowner cannot develop a golf course on the lands, pending a final decision by the OMB. The ministry's decision is a positive expression of the provincial government's commitment to the Natural Heritage policies of the PPS. This case may influence municipalities making decisions on similar development applications affecting significant natural areas in other areas of the province.

Unfortunately, considerable environmental damage has already occurred by clearing trees to create the fairways, and constructing culverts and ponds to drain the wetlands. The interior forest of Marshfield Woods has been significantly degraded and will not recover for a long period of time.

For example, the introduction of forest edges throughout this former interior woodlot will change the habitat used by migrating songbirds and other species of concern.

Despite this decision, the lands are still not "protected" from development. The lands remain designated "Agricultural," a designation which permits tree-cutting, and remain at risk of being completely cleared and drained.

Public Participation & *EBR* Process:

The ministry's description of the proposal and the decision were lacking in detail, but the Registry notice did provide a contact name and phone number so that the public could request more information. MMAH also posted the decision notice immediately after the decision was made to notify the public of the appeal period under the *Planning Act*. The main weakness of MMAH's notice is that it did not provide a description of the public comments and their effect on the decision as required by the *EBR*. The decision notice simply stated "All comments were reviewed and considered."

ECO's review of the public comments found there was no middle ground expressed – all comments were either strongly supportive or strongly opposed to the proposal. Fifty-five comments opposed the OPA proposal on environmental grounds. Twenty-one comments supported the proposal, primarily because of the issue of property rights. The number of comments is not important, since form letters were received from both sides and some individual comments represented a large number of organizations. Most of the comments were submitted by residents of the surrounding area, including business interests, farmers, naturalists and near neighbours, and reveal a deep split in the community. A few comments were submitted by provincial environmental and naturalists organizations.

Those opposed to the OPA described the environmental significance of the Marshfield Woods and asked that it be protected. They stressed that the County has less than 4% tree cover, but more than 20 golf courses. They referred to the PPS policies regarding provincially significant wetlands, significant woodlands, significant wildlife habitat, diversity and connectivity, and the quality and quantity of groundwater, surface water and recharge areas. Many commenters alleged that the Town of Essex failed to have regard to the PPS or the advice of experts such as staff of the ERCA and MNR, and that they did not carry out adequate public consultation. MMAH confirmed that the Town of Essex did not consult with the ministry as required by the *Planning Act* prior to the adoption of the OPA, and that advice provided by MNR and MMAH to Town Council was not followed.

Commenters pointed out that the goal contained in the Town's OPA "to ensure that the golf course is designed and operated in a 'no negative impact' manner regarding the natural ecosystem existing on the subject property and in the surrounding area," was unachievable by definition. "One simply cannot design and operate a golf course and at the same time have no negative impact on the existing natural eco-system."

They also raised the concern that this OPA was just the first stage of a larger project contemplated by the Hearn Group and another developer to expand the golf course and build estate housing on 2,000 hectares of contiguous forest and surrounding agricultural lands. Local residents opposed to the development also described the effect of some of the activities already carried out by the owner, including aerial spraying of Carbaryl, a non-selective pesticide. The residents pointed out that an MOE investigation had confirmed that spraying of Carbaryl was responsible for a bee-kill on a neighbouring property.

Commenters supporting the proposed OPA were not all necessarily in favour of the proposed golf course, but were strongly opposed to the idea of designating privately owned lands as environmentally sensitive. They argued that property rights should be paramount and if any level of government was going to remove landowners' rights to develop their lands, that the landowners should be compensated. This was a topical issue in the area at the time, because Essex County was also carrying out consultation on its proposed Official Plan and its proposal to designate some lands as Environmentally Significant Areas. Some comments suggested that golf courses are compatible with environmental protection, or at least superior to complete deforestation for agriculture or estate residential purposes. One submission questioned the accuracy of the wetland evaluation relied on by MNR to designate the area a Provincially Significant Wetland.

The comments contained opposing views on a number of topics:

- how environmentally significant the lands in question are
- whether the Town had carried out adequate public consultation on their consideration of the application
- whether provincial interests such as natural heritage should take precedence over a Town Council decision and individual property rights
- whether golf courses are protective or destructive of the environment

Many commenters on both sides of the debate called for the Province to purchase the lands from the proponent. Those interested in property rights said that compensation was required if the Province wanted to prevent a landowner from developing his or her property. Those interested in protection of the Marshfield Woods suggested that the lands were as ecologically significant as others included in the province's land acquisition programs, and that permanent protection was necessary to prevent any more destruction.

SEV:

MMAH's SEV focuses on restructuring, streamlining, and assisting municipalities to be efficient, rather than with meeting the purposes of the *EBR*. But it does include a principle of providing tough environmental protection and identifying development applications that are not environmentally sound. The ECO believes the ministry's decision was consistent with those principles and with the purposes of the *EBR*, particularly "the protection and conservation of biological, ecological and genetic diversity," "the protection and conservation of natural resources," and "the identification, protection and conservation of ecologically sensitive areas or processes."

Other Information:
Proposals for OPA approvals are classified as Class I instruments under the *EBR* where the Minister is the approval authority. But as a result of transfer of responsibility from the province to municipalities, most OPAs are now approved by upper-tier municipalities (Counties and Regions) which have been delegated the minister's authority, and the OPAs do not appear on the Environmental Registry. Because Essex County does not have an official plan, the ministry is still the approval authority for OPAs. That is why this instrument was placed on the Registry. It received 76 comments, quite a few of them from outside the local planning area. This case reinforces the value of and need for provincial oversight of municipalities' planning decisions. It also illustrates why broad public consultation on all OPAs and other planning decisions is important.

In March 2001 the Essex Region Conservation Authority laid charges against the Hearn Group for contraventions of the *Conservation Authorities Act* and was investigating possible contraventions of the federal *Fisheries Act*.

ECO Comment:
The ministry could have provided more information in its Registry proposal and decision notices. The ministry did not provide much detail in describing the proposal, and did not describe the comments received or their effect on the ministry's decision. However ministry staff were cooperative with requests for information from the public and the ECO.

The ministry's decision to deny approval for this proposed development is consistent with the purposes of the *EBR*, especially the protection and conservation of ecological systems and ecologically sensitive areas. The ECO also commends MMAH for giving appropriate weight to the comments by MNR and the ERCA. Unfortunately the ministry's decision on the golf course application will not necessarily protect the woodlands and wetlands from degradation, since the land is currently designated "Agricultural" and the landowner can carry out a wide range of activities on the lands, including draining and deforestation.

The fact that the landowner was able to deforest such an important natural heritage area points to weaknesses in the current land-use planning system and gaps in Ontario's environmental legislation. For example, there is no requirement for municipalities to designate environmentally significant lands as off-limits to development, and they only need "have regard to" the PPS policies. There is also no requirement for tree-cutting by-laws, or any provincial law prohibiting or limiting tree-cutting in ANSIs, wetlands, woodlands or significant wildlife habitat. MMAH and other ministries should consider these issues and this example in their five-year review of the PPS.

This case also illustrates the need for the government to reconsider the geographic scope of its land acquisition programs to include the remaining fragments of woodlands and wetlands, especially in the extreme southwest of the province. ECO review of Ontario's land acquisition programs is found on pages 171-177 of this year's annual report.

The ECO will monitor the outcome of the OMB hearings. See also Ministry Comments in this year's ECO report.

4. Ministry of Northern Development and Mines Decisions

Review of Posted Decision:
Inmet Mining Corporation, Winston Lake Mine: *Mining Act* s. 144(6) - Notice of proposed amendments to an existing closure plan

Decision Information:

Registry Number:	ID00E1002	Comment Period:	30 days
Proposal Posted:	February 18, 2000	Number of Comments:	1
Decision Posted:	May 9, 2000	Approval Granted:	April 27, 2000

Description:

Winston Lake Mine was a zinc and copper mine located on Highway #17 northwest of Schreiber, Ontario, and operated by Inmet Mining Corporation (Inmet) until December 4, 1998. In 1993, MNDM approved Inmet's initial Closure Plan regarding the process to be followed in closing the mine. In February 2000, Inmet requested and was granted an amendment to the closure plan to add details on how the mine would be rehabilitated. The amendment to the closure plan specified that the underground workings of Winston Lake Mine would be flooded with effluent, which is wastewater from the mining operations, that had been treated with lime. Inmet also simultaneously applied to MOE for amendments to their Certificate of Approval (CofA) issued under the *Ontario Water Resources Act*, to reflect the fact that, temporarily, the effluent would not go through the same process that it otherwise would and would instead be discharged into the mine. A previous amendment to the CofA had been granted to permit the construction of a lime plant to treat the effluent prior to the flooding. Finally, Winston Lake Mine is connected to the Pick Lake Mine, which is almost one-tenth the size. The amendment also permits the installation of a "bulkhead" to block the connection between the mine to give Inmet more time to investigate closure options specific to the Pick Lake Mine.

The original closure plan addressed the basic rehabilitation work to be conducted on the site after it was closed, including work on the mine's surface facilities, including openings, milling facilities and the "tailings" (crushed rock byproduct of mining) area. In deciding the specific means to rehabilitate the underground workings of the mine, Inmet looked at three options as outlined in a study from an environmental engineering consulting firm. The options were: allow the underground workings of the mine to flood as would naturally occur; flood the mine with lime-treated effluent from the operations of the mine; or flood the workings of the mine with a combination of lime-treated effluent and fresh water. Inmet chose to pump the lime-treated effluent from the tailings pond into the lime treatment plant, and directly into the mine for the flooding. Inmet proposed that the closure plan be amended to reflect this detail. The amendments were approved after some minor changes had been addressed through the Closure Plan Review process undertaken by MNDM's Rehabilitation, Compliance and Inspection Office.

Implications of the Decision:
According to MNDM, the amendment to the closure plan addresses some immediate and long term environmental effects of the mine. MNDM states that flooding the mine with the lime-treated effluent will reduce/remediate the generation of acidic drainage in the underground workings. A mine will normally flood to normal groundwater levels on its own over time due to water flowing in from fractures in the bedrock. The time it takes depends on the stability, thickness and fractures in the mine's bedrock and "crown pillars" – the layer of rock above the highest workings of the mine. Sometimes water is added to speed up the flooding, since acid-generating materials within the mine that are not flooded can be oxidized when exposed to air, and will leach out from the mine. The water that is added is treated with lime to increase the alkalinity of the water in the mine and reduce the acidity of the mine drainage. MNDM states that the decision to flood a mine is based on the type of ore in the mine and whether acidic mine drainage is a risk. MNDM found that in the Winston Lake Mine, there was a risk that sulphides that were present might become oxidized, resulting in acidic mine drainage.

MNDM states that using treated effluent for the flooding will also benefit the downstream water body since it will no longer have to deal with the negative impacts of the effluent. This watershed has been the subject of debate in the area. The concern of local residents about the effect of the mine tailings on the watershed spawned the creation of the Cleaver Lake Restoration Group. This group includes representatives from MNDM, MOE, MNR and the federal Department of the Environment. One of the main concerns at Cleaver Lake is the presence a high level of zinc in the lake bottom. Another concern is the lime-treated effluent itself, which is heavy and sinks to the bottom of the lake. There, it created a higher solids content in the water and prevented lake turnover, leading to less oxygen in the water and loss of fish habitat. MOE had been monitoring the quality of Cleaver Lake for many years and will continue, along with Inmet, in order to determine if ending the addition of treated effluent is enough to rehabilitate the lake.

However, one commenter argued that pumping the effluent underground could instead potentially contaminate the area groundwater. The commenter was concerned that the effluent would not be treated as it otherwise would be to comply with CofA effluent limits for surface discharge, and that there will be an outflow of water through bedrock cracks. The commenter suggested that the plan simply transferred the impact of the elevated metals in the mine's effluent to the groundwater system. Any seepage of heavy metals still present in the water would potentially be deleterious to the groundwater, the ecological systems of the area, and the health of nearby residents. MNDM responded to this commenter in writing and denied that the decision relieved Inmet of their responsibility to treat their effluent, stating that the proposal was "designed to meet both the surface water and groundwater standards that are applicable to the site," given the water quality concerns on the property.

Public Participation & *EBR* Process:
MNDM states that although the one comment received was considered, it resulted in no impact on the decision to accept the amendment to the closure plan. The commenter's claim that Inmet was simply using this idea to avoid their responsibility to treat the effluent to meet applicable standards

for release to surface water was refuted by MNDM, as discussed above. According to MNDM, since Winston Lake mine is an older mine, there may be more cracks in the rock, but the groundwater level is "well below any openings to the surface" so there shouldn't be any surface discharge from the mine in the long run. In addition, MNDM stated that the CofA would be used to compel Inmet to monitor the effluent directed underground as well as the water in the mine. In response to concerns raised by the commenter, MNDM staff did write to the commenter and each of the issues raised was specifically dealt with.

The ECO believes that the low number of comments received could have been related to the ambiguity in the notice of proposal as posted on the Environmental Registry. The few details that were provided may have led to some misunderstanding as to the issues and risks involved in the proposal. In addition, the use of highly technical language in the posting may have also decreased the potential for public participation. However, many others had an opportunity to comment on the closure plan through Inmet's meetings with the Cleaver Lake Restoration Group. While MNDM stated in the Decision Notice that, apart from the Registry notice, there was no additional public consultation regarding the closure of the site, Inmet did hold annual meetings with the Cleaver Lake Restoration Group regarding the status of the lake in general. These annual meetings had been taking place since before the closure plan was ever submitted.

SEV:

While MNDM did address in its SEV statement how these rehabilitation activities complement or further the achievement of its SEV generally, the ministry did not specify which SEV components in particular were achieved or promoted by this project. According to MNDM, the project helps achieve its SEV, since financial assurances are in place to ensure that the rehabilitation activities they have chosen will restore the site to a safe and productive state; the closure plan is a safe and environmentally sustainable program that will reduce the environmental impacts of the site; and the plan was the subject of a multi-ministry review. MNDM also points to some special provisions to monitor the discharge to the underground workings and the effects of other rehabilitation measures that were instituted in the CofA and the closure plan. Rehabilitation Inspectors who are employed by MNDM will address the project's achievement of the provisions and commitments made in the ministry's SEV by inspecting and auditing compliance with the closure plan.

Other Information:

This plan was submitted under the former approval regime established under the *Mining Act* and its regulations. This regime was replaced in June 2000 when amendments to the *Mining Act* enacted in 1996 were proclaimed and the new regulations took effect. These amendments created a self-certification system for mine closure and rehabilitation plans. They are discussed in detail on pages 122-124 of this year's ECO annual report and in another section of this Supplement.

The Winston Lake Mine has been the subject of previous Decision Postings on the Environmental Registry. On December 7, 1996, MOE posted a decision allowing an order for unapproved sewage works, increasing the discharge limit for biochemical oxygen demand in the existing certificate of approval (IA6E1597). On November 26, 1999, MNDM posted a decision allowing a previous amendment to the Winston Lake Mine Closure Plan updating rehabilitation measures to the tailings area that would be implemented as part of the accelerated closure date. Those measures included raising the main tailings dam and constructing a spillway (ID9E1008).

ECO Comment:

The ECO commends MNDM for sending information and a personal letter to the commenter in response to the issues raised in the comments. This goes beyond the requirements of the *EBR*. However, both the public and the purposes of the *EBR* would have been better served if the notices of proposal and decision had given more detail as to the proposed amendment to the closure plan. The only statement describing the project stated, "The use of treated effluent to flood the underground workings." This statement does not indicate what is contained in the effluent nor how it will be treated. This ambiguity makes it very difficult for the public to assess whether the proposed action may be a threat to groundwater or surface water sources and to comment on the overall social, ecological and economic impacts of the decision. In addition, the decision notice does not refer to "Cleaver Lake" beyond mentioning that the decision will benefit downstream water sources that would no longer have to receive the effluent. Further details regarding the engineer's report, the risks of each alternative and the state of nearby lakes would have improved the posting and properly informed the public of all the issues. In addition, while MNDM did address its SEV in general, the ECO encourages MNDM to refer to those specific parts of its SEV that are furthered by such projects.

MNDM also assessed the impact of additional effluent on the surrounding area and the risks of the alternatives for the flooding and closure of the mine. Using freshwater rather than treated effluent to flood the mine would have resulted in "cleaner" water in the mine since any contamination of the water by the mine itself would be extremely diluted. This would benefit the condition of groundwater surrounding the mine since some water does leak out of the mine. However, using treated effluent greatly benefitted the downstream water sources, which would have otherwise received that effluent. The ECO recognizes that Inmet and MNDM were required to make a difficult decision between alternate risks, and chose to help alleviate surface water contamination. In general, the ECO believes that MNDM has practised good environmental planning by approving closure plans for depleted mines and using engineering reports to weigh alternatives and make an informed decision. However, as described in the the ECO annual report, MNDM will no longer be directly involved in reviewing or approving closure plans.

Review of Posted Decision
The *Mining Act*'s Part VII Regulation and Mine Rehabilitation Code (O. Reg. 240/00)

Decision Information:

Registry Number: RD9E1001	Comment Period: 60 days
Proposal Posted: August 17, 1999	Number of Comments: 6
Decision Posted: March 22, 2001	Regulation Filed: April 25, 2000

Description:
In 1996, Part VII of the *Mining Act* was amended by Bill 26, the *Savings and Restructuring Act*, to create a self-certification system for mine closure and rehabilitation plans. The ECO's 1996 annual report noted that changes to Part VII included:

- more flexible financial assurance provisions in mine closure plans so that mine developers can pass a financial test or pledge financial assurance using less secure assets or royalties instead of providing cash or bonds;
- self-certified closure plans that do not require a Director's approval before mine operations begin; and
- a requirement that mine developers progressively rehabilitate mine sites regardless of whether mine site closure has started or a closure plan has been filed.

These amendments were not posted on the Environmental Registry. In response to ECO concerns about its failure to post these amendments, MNDM agreed in 1996 to post the regulation developed under the amended Part VII of the *Mining Act* on the Registry.

In August 1999, MNDM posted on the Registry a proposal for a regulation and Mine Rehabilitation Code under Part VII of the *Mining Act*. This regulation, O. Reg. 240/00 - "Mine Development and Closure under Part VII of the Act," was filed on April 25, 2000, and took effect on June 30, 2000. The regulation makes major changes to the previous regulation under Part VII. The most significant changes are detailed below. Part VII of the *Mining Act* was proclaimed on the same day that the regulation took effect.

O. Reg. 240/00 introduces the newly developed Mine Rehabilitation Code of Ontario, which sets out minimal requirements relating to mine rehabilitation. All persons engaged in rehabilitating mines and mine hazards must comply with the code. The code includes requirements, guidelines and standards that relate to the following objectives:

- ensuring that inadvertent access to mine openings to surface is prevented through use of reinforced concrete cap, steel cap or backfilling;
- limiting potential hazards and maintaining public safety around open pits, and restoring site to an appropriate land use;
- limiting potential hazards and maintaining public safety in relation to the stability of crown pillar and room and pillar operations, and restoring the site to an appropriate land use;
- ensuring long-term physical stability of tailings dams and other containment structures;

- ensuring that surface water quality is demonstrated to be unimpaired and that it is satisfactory for aquatic life and other beneficial uses;
- identifying and characterizing any potential impediments to beneficial use of groundwater as a result of the presence of migration of contaminants;
- determining potential for significant metal leaching or acid rock drainage and, if needed, ensuring development and implementation of effective prevention, mitigation and monitoring strategies;
- ensuring safety of sites by requiring that all lands, water management structures and other mine-related structures are left in physically stable condition; and
- stabilizing surface materials and providing protection from wind/water erosion, improving appearance/aesthetics of site, enhancing natural vegetation growth and establishing self-sustainable vegetation growth, and supporting designated end use of site.

O. Reg. 240/00 also sets out requirements for the self-certified closure plans introduced in Bill 26. Under the amended provisions in Part VII of the *Mining Act*, mining companies file a self-certified closure plan with MNDM, certified by a company's chief financial officer and another senior officer. Prescribed elements of the closure plan must be approved by qualified professionals, including a professional engineer. The closure plan must include information such as current project site conditions, a project description, rehabilitation measures, monitoring programs and procedures, and expected ultimate site conditions.

MNDM stated in its Registry notice that this streamlined closure plan submission process is intended to make the system more efficient and will uphold Ontario's "stringent environmental standards." MNDM also stated in its Registry notice that, prior to these amendments, the closure plans had to be extensively reviewed by staff at MNDM, the Ministry of Labour, MNR, and MOE before they were approved. According to the Registry notice, the new process allows proponents, along with all involved qualified professionals, to review and certify their own closure plans and provisions for financial assurance. MNDM maintained that this new method of self-assessment will greatly reduce the length of the closure plan review process.

O. Reg. 240/00 also removes a provision in the previous regulation that required mining proponents with projects subject to a closure plan to make an annual report to MNDM on the following: the nature and extent of rehabilitation work in the past and coming year; results of all monitoring described in the closure plan; and any changes in the conditions of the project. There is no provision for annual reporting under O. Reg. 240/00.

Section 145 of the amended *Mining Act* states that the financial assurance required as part of a closure plan, to ensure that there will be funds available for mine closure, may be in the form of compliance with a prescribed corporate financial test. This means that mining companies may meet the financial assurance requirements by satisfying credit rating criteria instead of posting financial security such as cash, a letter of credit or a bond. O. Reg. 240/00 sets out this corporate financial test. A proponent complies with the corporate financial test for the entire life of the mine if the proponent's credit rating meets or exceeds the satisfactory credit quality/investment grade ratings from two stated credit rating services. A proponent complies with the corporate financial test for the first half of the life of the mine (if the first half of the life of the mine is at least four years) if the proponent's credit rating meets or exceeds the adequate credit quality/investment grade ratings from two credit rating services. Companies that meet the corporate financial test must monitor their credit ratings and inform MNDM if their credit ratings are downgraded, of if any other matter materially affects their financial assurance status.

Implications of the Decision:
Although the new closure plan submission process involves self-assessment and self-certification, MNDM is still required to place notice of proposed mine closure plans on the Registry for public notice and comment, which preserves the opportunity for a member of the public to apply for leave to appeal a decision on a mine closure plan. MNDM has 45 days after receiving a closure plan before it is acknowledged or deemed to be filed. Therefore, the ministry must move quickly to post the closure plan on the Registry. Under Part VII of the *Mining Act*, MNDM may return a closure plan to a proponent for refiling if it does not sufficiently address all of the prescribed requirements for a certified closure plan. These checks may help to prevent proponents from certifying closure plans that are not adequate to protect the environment.

Also, the requirement that elements of the closure plan be approved by qualified professionals, including a professional engineer, should help to ensure that all potential rehabilitation and remediation issues are properly addressed. The information required for inclusion in closure plans is extensive and detailed, and proponents must consider many environmental issues and potential problems. Closure plans must also comply with the specific standards, procedures and requirements in the new Mine Rehabilitation Code. The Code should have a positive impact on the environment, as it emphasizes environmental health and public safety.

In July 2001, MNDM indicated that it had signed a Memorandum of Understanding with MOE, MNR and MOL to review all mine closure plans. There remains a 45-day period to respond to the closure plan after it is submitted. Ultimately, if there are problems with compliance with the regulation or Code, the Director of Rehabilitation has the power to require amendments to the closure plan. Ministries may also carry out their own site inspections after the closure plan has been filed.

The change to O. Reg. 240/00 that accepts a credit rating as a form of financial assurance was criticized by one commenter on the basis that it provides less assurance than realizable financial securities. If the government does not require adequate financial assurance, there is a danger that there will not be sufficient funds available when mine rehabilitation and remediation is necessary, and that Ontario taxpayers will be required to pay for this. There are thousands of abandoned mines in Ontario that must be rehabilitated at public expense. For example, the ECO's 1999-2000 annual report described the environmental contamination caused by the abandoned Kam Kotia Mine and Mill site near Timmins, and the expected clean-up cost of over 15 million dollars (see section 3.7 of the 2000-2001 annual report for an update on the Kam Kotia Mine). However, O. Reg. 240/00 does require a high grade credit rating for a proponent to meet the corporate financial test for this form of financial assurance. Only large companies that are sufficiently capitalized and have the required credit rating may rely on the new financial assurance provisions.

Public Participation & *EBR* Process:

This proposal was posted on the Environmental Registry for a period of 60 days. The proposal notice included a hyper-text link to MNDM's Web site which provided a summary of the changes to Part VII of the *Mining Act*, and a further hyper-text link to the draft regulation and Mine Rehabilitation Code. In the decision notice, this link remains to a summary of the final changes, and the final text of the regulation and code.

Both the proposal and decision notices of this regulation were deficient in terms of the quality of information provided. The proposal notice contained very little information about the substance of the draft regulation and Mine Rehabilitation Code. The decision notice included only a very brief and uninformative summary of the effect of comments on the ministry's decision. MNDM did not summarize the substance of the comments or indicate specifically what impact, if any, they had on the final text of the regulation. MNDM stated only in the Registry notice that "[b]ased on the comments received several minor revisions were made to sections of the code to clarify intent as well as Part 7 to reference the most current documents." This sentence makes little sense, and does not detail what "minor" revisions were made to the draft text of the regulation and code.

Although this regulation was filed on April 25, 2000, and came into effect on June 30, 2000, the decision notice was not posted on the Registry until March 22, 2001, after the ECO had urged MNDM by telephone and in writing to post the decision. This very late notice kept the public from being informed through the Registry of the outcome of this proposal for almost a year. In correspondence to the ECO, MNDM claimed that the advance publication of the regulation in the Ontario Gazette satisfied the requirement in subsection 36(2) of the *EBR* that, as soon as reasonable possible after a decision is made on a proposal, the minister must give notice to the public of the decision. It is clear, however, that publication in the Gazette was not sufficient to meet this requirement because subsection 36(3) specifies that notice "shall be given in the registry and by any other means the minister considers appropriate."

Six comments were received in response to the proposal notice. Three of the commenters asserted that the credit rating requirements which a company must meet in order to pass the corporate financial test to "self-assure" for the entire life of the mine are too onerous. They suggested that an investment grade rating would be adequate to indicate that a mining company is solvent enough to meet its closure obligations. One of these commenters also stated that "[b]y requiring a higher than investment grade, the Ministry is effectively shutting out almost every mining company in the province of Ontario for being able to self-assure." These commenters warned that companies operating in Ontario would be at a competitive disadvantage compared with those in other jurisdictions unless the corporate financial test was eased. MNDM did not change the corporate financial test in response to these submissions.

One commenter suggested that changes making it easier for mining companies to do business in

Ontario would weaken the environmental safeguards in the *Mining Act*. In particular, this commenter recommended that the Director of Mines Rehabilitation at MNDM be required to approve all closure plans to ensure that appropriate elements are included so that the safety, health and environment of Ontario residents are protected. The commenter also suggested that proponents be required to submit annual reports on compliance with their closure plans, as required in the previous regulation. This commenter also had concerns about the corporate financial test, pointing out that a credit rating is a soft security instrument which provides less assurance that funds for closure and remediation will be available when required, leaving Ontario taxpayers responsible for mine rehabilitation. The commenter recommended that MNDM maintain the prior requirement for posting realizable financial securities in relation to mine closure plans, or establish other mechanisms to protect the public from having to assume the costs of mine remediation. MNDM did not make any changes in response to these submissions.

The six commenters made a number of other specific comments and recommendations concerning the regulatory and technical aspects of the Mine Rehabilitation Code which are too numerous to discuss here.

In addition to the consultation on the Registry, the Part VII Regulation and the Mine Rehabilitation Code were reviewed and commented on by various other ministries and private sector groups including the Ontario Mining Association, the Professional Engineers of Ontario, the Association of Landscape Architects, the Association of Municipalities of Ontario, and the Minister's Mining Act Advisory Committee, which includes members of various private sector, municipal, and community groups.

SEV:

MNDM did not provide evidence of detailed consideration of its SEV in making this decision. The only documentation provided by MNDM to the ECO stated that this proposal was in keeping with its SEV, and would complement or further the achievement of the SEV because it would "greatly streamline and improve the closure plan submission process while still maintaining and upholding the Province's stringent environmental standards." This document claimed that there had been extensive consideration of the SEV in developing this proposal, but did not discuss how it was considered, nor did it make specific references to commitments in the SEV.

This proposal appears to be consistent with a number of commitments in MNDM's SEV objectives such as: advocating mining as temporary land use, replaced in the long term with alternative natural, recreational or commercial land uses; giving high priority to environmental protection during all phases of mining, including closure; minimizing environmental disturbances during all phases of mining and recognizing that prevention is more effective than remediation and rehabilitation of an environmental problem; and eliminating the short- and long-term effects of mining on the environment.

Other Information:

As noted above, MNDM agreed in 1996 to post regulations developed under the amended Part VII of the *Mining Act* on the Registry. These regulatory amendments were expected by late 1996. The amendments in Bill 26 were also supposed to have been incorporated into MNDM's part of the instrument classification regulation under the *EBR*. This was not done in 1996 because the amended Part VII of the *Mining Act* was not proclaimed until June 30, 2000. MNDM has drafted its instrument classification amendments, but is waiting for MOE to implement these changes to the instrument classification regulation.

ECO Comment:

On balance, this regulation should have positive environmental impacts. The Mine Rehabilitation Code introduces comprehensive standards, procedures and requirements that should help to ensure environmental health and public safety. Although closure plans are now self-certified, they are still subject to public notice and comment on the Registry, under the *EBR*, and some degree of scrutiny by MNDM and MOE. In order to facilitate the public's review of self-certified closure plans, MNDM should consider including hyper-text links to the actual proposed closure plans in the proposal notices. These would be similar to the hyper-text links that MOE now includes in proposal notices for permits to take water.

The removal of annual reporting on rehabilitation progress is a cause for concern. Where self-regulation is introduced, it is important for the ministry to require and follow up on annual reports by the companies. The ECO would encourage that an annual reporting requirement be reintroduced.

Financial assurance provisions should continue to ensure that proponents will be able to fund any required remediation and rehabilitation. In the long term, the ministries will need to address the question of how to fund the exceptionally large costs of rehabilitating abandoned mines. In 2000, MNDM advised the ECO that it intended to spend 27 million dollars of public funding to begin cleanup of some sites and to ensure that public health and safety near certain sites is not compromised. For example, in the summer of 2000, several areas in the town of Timmins experienced slumps in land due to the collapse of old mines under parts of the town.

The ECO recommends that MNDM consider the model provided under the *Aggregate and Petroleum Resources Law Amendment Act*. Under this model, Ontario's aggregate operators contribute levies to special dedicated funds as follows:

- each operator contributes to their own site-specific fund as part of financial assurance for the operation;
- each operator contributes to a common floating fund based on production levels; and
- each operator pays levies to municipalities based on production levels.

The Aggregate Producers Association of Ontario (APAO) administers the common floating fund and the rehabilitation program, and decides which sites are to be rehabilitated. As part of the Management of Abandoned Aggregate Properties Fund, APAO also encourages and supports the development of research related to rehabilitation, and monitors the success or failure of completed rehabilitation projects. If the floating fund decreases to an unacceptable level, the MNR may impose a fee per tonne of aggregate extracted from pits and quarries to rejuvenate the fund. The ECO suggests that this type of model could be adapted to create a floating fund for the rehabilitation of abandoned mine sites.

As noted above, MNDM failed to give notice of its decision on this regulation in a timely manner. The ECO is concerned about this failure because it compromised the Registry as tool to provide the public with current information.

In relation to the poor quality of the proposal and decision notices, MNDM should ensure that more detailed descriptions of proposals and comments are given in future Registry notices. However, MNDM should be commended for providing a comment period of 60 days, and for including hyper-text links in the notice to a summary of changes, and to the text of the regulation and Mine Rehabilitation Code.

MNDM should provide better SEV documentation that reflects in more detail its consideration of SEV goals and objectives in the context of a specific proposal.

MNDM is to be commended on drafting the amendments to its instrument classification regulation, but MOE should move quickly to implement these changes by amending the regulation.

5. Ministry of Consumer and Business Services and Technical Standards and Safety Authority Decisions

Review of Posted Decision:
Technical Standards and Safety Act, Bill 42, S.O. 2000, Ch. 16

Decision Information:
Registry Number: AJ8E0001 (MCBS); AT8E0001 (TSSA)
Comment Period: October 21, 1998 - December 5, 1998 (45 days)
Proposal Posted: 1998/10/21
Number of Comments: 1
Decision Posted: 2001/02/15
Legislation in force: The Act was given Royal Assent October 16, 2000, and will come into force on a day that is proclaimed by the Lieutenant Governor. As of March 31, 2001, the Act had not yet been proclaimed in force.

Description:
In 1996, the Ontario government enacted the *Safety and Consumer Statutes Administration Act* (*SCSAA*), which created the Technical Standards and Safety Authority (TSSA), a private, not-for-profit corporation. The SCSAA transferred the administration and technical requirements for day-to-day operations of seven safety statutes to the TSSA from the Ministry of Consumer and Business Services (MCBS) (**Note**: The Ministry of Consumer and Business Services was called the Ministry of Consumer and Commercial Relations (MCCR) until early February 2001.) Among these safety statutes was the *Gasoline Handling Act (GHA)*, an Act governing all aspects of the handling of fuel in Ontario – for example, underground storage tanks for gasoline. Prior to the establishment of the TSSA, the MCCR's Fuel Safety Branch administered this environmentally significant law and the accompanying regulations, policies, and instruments under it.

In 1997, the ECO contacted the TSSA and staff at MCBS when it came to the ECO's attention that responsibility for administering the *GHA* was to be transferred to the TSSA. After discussions with the ECO about who would fulfil the ministry's responsibilities under the *EBR*, MCBS agreed to delegate its *EBR* responsibilities under Part II (Public Participation in Government Decision-Making), Part IV (Application for Review), and Part V (Application for Investigation) to directors of the TSSA. A copy of this delegation under S. 117 of the *EBR* was provided to ECO on July 10, 1997, by the President and Chief Executive Officer of the TSSA . Since that time the TSSA has posted instruments and other regulatory provisions on the Registry and reports annually to the ECO on its *EBR*-related activities.

In October 1998, MCBS posted a proposal for an Act entitled the *Technical Standards and Safety Act* ("Bill 42"). Bill 42, as originally proposed, was intended to consolidate and harmonize seven existing technical safety statutes, including the *GHA*. The final Act does not contain the technical safety requirements found in the *GHA*. MCBS and the TSSA have advised that these technical details will be contained in future regulations under the Act.

Bill 42 was introduced for first reading on December 20, 1999. At that time, the Minister of Consumer and Commercial Relations indicated that " ... [u]nder this legislation, we will become leaders in public safety by giving our technical industries the ability to quickly take advantage of new innovations in safety equipment and technology as they become available."

Bill 42 will be proclaimed once various regulations relating to the seven safety statutes are drafted and brought into force. Bill 42 includes a specific provision stating that the *EBR* applies to the Act with respect to matters to which the predecessor *GHA* would have applied had it not been repealed by this Act. The *EBR* will continue to apply to gasoline handling matters administered by the TSSA, despite the repeal of the *GHA*. It appears, however, that Bill 42, when proclaimed, should be prescribed under the *EBR*, so that its regulations dealing with gasoline handling and safety matters will be caught formally by the *EBR*.

Implications of the Decision:
Prior to the enactment of Bill 42, certain standards in the safety statutes administered by the TSSA and MCBS could be altered only by the passage of a new law. Now, MCBS or Cabinet will be able swiftly to amend these technical provisions, which will eventually be located in regulations or in safety codes referenced in the regulations established under Bill 42. These changes will not be subject to the scrutiny of legislators. However, regulations involving changes to matters to which the *GHA* would have applied prior to its repeal by Bill 42 are still subject to the provisions of the *EBR*.

While placing the various safety standards in regulations provides greater flexibility to the TSSA and MCBS, it also reduces the oversight role of the Legislature in forming policy and law on environmentally significant matters such as gasoline handling in Ontario.

Another consideration is that most of the expertise and ministry corporate memory related to gasoline handling at the former Ministry of Consumer and Commercial Relations was transferred to the TSSA when the majority of staff at the ministry's Fuel Safety Branch were hired by the Authority's Fuel Safety Division. As the technical capacity of MCBS has also been transferred to the TSSA, the ECO suggests the role of the TSSA in influencing policy and legislative changes affecting the TSSA's work is a very strong one.

Public Participation & *EBR* Process:
The basic *EBR* notice and comment requirements for this proposal were met by the ministry. MCBS provided a 45-day comment period, 15 days longer than the 30-day minimum comment period required under the *EBR*. In addition to the MCBS proposal notice, the TSSA posted an information notice regarding the proposed legislation, but referred readers who wished to comment on the proposal to MCBS's proposal posting. As well, the TSSA provided links to the English and French versions of the draft legislation. MCBS did not provide this information electronically in its Registry notice, but indicated that a copy of the legislation could be obtained by calling or writing the designated contact person within the ministry.

One comment was received in response to the Registry notice. The comment was a comprehensive discussion paper on the creation of the TSSA and the devolution of the regulatory arm of MCBS to the newly created non-profit corporation. While the comment was broad in scope, it contained several relevant sections with respect to the Bill 42 notice. In particular, there were relevant comments with respect to the lack of transparency in the TSSA decision-making system, concerns related to whether the TSSA would make its decisions and policies in accordance with the principles of natural justice and fairness and in compliance with the *EBR*.

The ministry's response was that the comment was not applicable to Bill 42 specifically. The comment addressed the overall structure and role of the TSSA and was thus not taken into account in making the final decision with respect to Bill 42. The ministry further stated that the comment was more applicable to the upcoming review of the effectiveness of this kind of agency model as an administrative authority. The ECO urges the TSSA and MCBS to post an information notice on the Registry when such a review is launched. As of the end of the reporting period, the ECO had not received notice of such a review.

SEV:

Although MCBS formally delegated its *EBR* responsibilities to the TSSA, it retains the authority to draft legislation and regulations, as well as overseeing standard-setting and public safety policy. In developing Bill 42, MCBS was required to consider its Statement of Environmental Values before coming to a final decision in this matter. However, when asked to supply documentation about their SEV considerations, the ECO was informed that there was "no SEV consideration due to the broad nature of the bill." The far-reaching nature of the bill is precisely why the SEV needed to be taken into consideration. The broad nature of Bill 42 means there is a greater potential for environmentally significant implications. Specifically, the SEV should have been taken into consideration when dealing with how Bill 42 affects the former provisions of the *GHA*, as this is required under the *EBR*. The fact that MCBS has failed to comply with this requirement is a serious breach of the *EBR*.

Other Information:

In March 2001, both MCBS and the TSSA posted a Notice of Proposal for a Regulation on the Registry with respect to the new Liquid Fuels Handling Code. The notice states that the TSSA has commenced a comprehensive review of the 1993 Gasoline Handling Code. The proposed Liquid Fuels Handling Code was developed through a Technical Advisory Committee made up of industry representatives. As well, the Code was provided to the Ministry of Agriculture, Food and Rural Affairs and the Northern Ontario Tourist Operators before being posted for general public comment on the Registry. The notice provided on the Registry also states that the "TSSA encourages interested persons to also review proposals posted by MCBS pertaining to the Technical Standards and Safety Act and the Liquid Fuel Handling Regulation as well as the proposed Environmental Management Protocol for Operating Fuel Handling Facilities in Ontario."

ECO Comment:

The formation of the TSSA and the enactment of Bill 42 requires careful scrutiny by all residents of

Ontario. This bill is significant because it has been recommended as a model of alternative service delivery to be implemented in other government ministries with the goal of eliminating red tape and streamlining government function.

Bill 42 requires the TSSA to continue posting notices on the Registry in relation to matters under the former *GHA*. Registry postings have continued on these matters since the inception of the TSSA. Bill 42 does not specifically establish regulatory schemes for the other sectors not covered by the *GHA*. Instead, regulations will be enacted under Bill 42. This will meet the goal of being able to respond better to changes in industry standards, as regulations are more easily amended than legislation. The ECO hopes the comments submitted are taken into consideration when MCBS and the TSSA conduct their internal review of the effectiveness of the administrative authority model used to establish the TSSA, and that this review is posted on the Registry to allow greater public participation and accountability.

While the *Interpretation Act* may allow for the *Technical Standards and Safety Authority Act* (Bill 42) to be interpreted in such a way as to read-in its inclusion in the *EBR*, MCBS and the TSSA should ensure the relevant portions of the *Technical Standards and Safety Act* are prescribed by regulation under the *EBR*. This problem should be addressed to ensure that *EBR* rights are preserved and the ECO's role remains clear.

6. Ministry of Energy, Science and Technology Decisions

Review of Posted Decision:
Regulation setting minimum efficiency levels for six products under the *Energy Efficiency Act*
(O. Reg. 364/00)

Decision Information:

Registry Number: RO00E0001	Comment Period: 30 days
Proposal Posted: March 10, 2000	Number of Comments: 1
Decision Posted: July 11, 2000	Regulation Filed: June 23, 2000

Description:

This regulation (O. Reg. 364/00) amends O. Reg 82/95, which prescribes minimum energy efficiency standards under the *Energy Efficiency Act*. Energy efficient appliances and equipment use less energy, reducing emissions of greenhouse gases. They also reduce the demand for new sources of energy, especially since many household appliances are used during periods of peak demand. Another benefit for consumers is lower energy costs.

O. Reg. 364/00 sets minimum efficiency levels for six products not previously regulated under this Act, to come into effect on April 1, 2003. These products are vending machines, commercial refrigerators and freezers, ceiling fans, drinking water coolers and highmast luminaires (street lamps).

In addition to setting efficiency levels for previously unregulated products, the regulation updates the former national Canadian Standards Association (CSA) standards for four products already regulated under the *Energy Efficiency Act*, effective January 1, 2001: electric ranges, dehumidifiers, ice makers and incandescent reflector lamps.

This regulation also makes some administrative changes to the base regulation. The language of O. Reg. 82/95 is brought up to date by replacing "Ministry of Environment and Energy" with "Ministry of Energy, Science and Technology" (MEST) in three sections. The base regulation is also amended to clarify that, where earlier CSA efficiency standards existed, the new CSA standards will not apply to products that were manufactured before the prescribed implementation date.

Another change, which is described as administrative in the Registry notice, ambiguously eliminates a compliance date of January 1, 1999, for refrigeration chillers in relation to certain CSA efficiency standards. The Registry notice states the regulation "delays the compliance date for one existing product." However, the next sentence states that the amendment "will eliminate the second compliance date of January 1, 1999 for commercial chillers." This direct contradiction indicates poor drafting of the Registry notice. In fact, the regulation does not provide an alternative date for compliance in relation to the second date for commercial chillers. The Registry notice did not provide any reason for eliminating this compliance date.

MEST explained to the ECO that the minimum efficiency levels that were referenced in O.Reg. 82/95 were originally set in 1992. The compliance date anticipated a more stringent energy efficiency level coming into effect in the United States. The U.S. date was delayed because the phase-out of freon as a refrigerant necessitated extensive product testing. The ministry temporarily removed the second compliance date until an updated performance standard was published by CSA International. The updated CSA-C743/01 standard for chillers is now at the final balloting stage and is expected to be published within the year. A new compliance date for chillers will be included in a future amendment to the regulation.

There are two discrepancies between the Registry proposal and decision notices, and the final regulation. The Registry notices list exit signs as one of the products for which minimum efficiency levels will be prescribed. However, no standards for exit signs appear in O. Reg. 364/00. Also, O. Reg. 364/00 includes an updated standard for dehumidifiers that is not mentioned in the Registry notices.

The stated purpose of the proposal is to reduce the environmental impact of energy use and encourage energy conservation by increasing the efficiency of products sold or leased in Ontario, which will therefore reduce the consumption of fossil fuels and the release of pollutants to the environment. The Registry notice also informs the public that fossil fuel generation of electricity results in the emission of oxides of carbon, nitrogen and sulphur, and these emissions are the principal cause of acid rain, urban smog and potential climate change.

Implications of the Decision:

These improvements to energy efficiency standards will have positive environmental and economic impacts. Some experts estimate that improved energy efficiency standards may result in significant reductions in carbon dioxide emissions. Any progress made in this area will benefit the environment by reducing the emission of greenhouse gases that are linked to the warming of the earth's climate.

In the past, the ECO has expressed concern that MEST was not moving quickly enough to improve energy efficiency standards. The ECO's 1998 annual report noted that, for many years, Ontario led other Canadian and North American jurisdictions in setting energy efficiency standards and began to establish them in 1988. In recent years, however, Ontario stopped leading in the development of new standards. Due to budget constraints, Ontario followed the lead of other jurisdictions, sometimes regulating products several years after they had been regulated in Canada at the federal level, or in the United States. In the 1998 report, we noted that "standards [were] pending for at least another six products." These are the six products now being regulated under O. Reg. 364/00.

In this Registry notice, MEST indicates that these energy efficiency standards are "nationally recognized documents" developed by technical committees as part of a national standards development process under which the CSA develops standards, tests criteria and chairs committees. Representatives of MEST sit on the technical tables for the development of the national standards. Ontario established this system for setting and harmonizing standards and persuaded other provinces and the federal government to join it. The federal government now pays the CSA to develop the standards, but Ontario continues to participate on tables and consultations.

In MEST's 2000-2001 Business Plan, there is no emphasis on the ministry's role in developing energy efficiency standards, beyond general references to promoting an energy efficiency sector, and reducing the environmental impact of energy use. However, since 1998, MEST has increased the number of staff responsible for energy efficiency regulation from one to three people. In addition, last year there was an increase in budget of $50,000. Half of that extra money was used for audits and testing of products in the marketplace, and the other half went toward improving standards.

In implementing the energy efficiency standards prescribed in O. Reg. 364/00, Ontario is ahead of the federal government. While these standards were developed by the CSA's national standards committees, the federal government has yet to implement the CSA standards that MEST has prescribed in this regulation. The standards produced through the CSA's national standards development process are also harmonized with those developed in the United States, so that Ontario's standards, once implemented, will be comparable to U.S. standards.

Public Participation & *EBR* Process:

This regulation was placed on the Registry for a 30-day comment period. An official with the Ministry of Transportation requested a copy of the draft regulation, but the public did not submit any comments or propose changes.

The Registry notice states that the standards in this regulation were developed as nationally recognized documents with the assistance of technical committees composed of manufacturers, utilities, retailers, consumer groups, government and ministry representatives. Part of this national standards development process involved obtaining public input on each standard through consumer advisory panels and national publication asking for review and comment. Given this additional consultation, the comment period of 30 days appears to have been adequate for this proposal.

SEV:

MEST's Statement of Environmental Values sets out a number of strategic directions to guide the ministry's activities. One of these directions is the "encouragement of efficient energy production and use . . . ." In documentation provided to the ECO, MEST explained how it considered its SEV in making this decision. MEST noted that the regulation is consistent with the encouragement of efficient production and use because it will "enhance the present energy conservation or efficiency of products sold or leased in Ontario, and reduce the consumption of fossil fuels and the release of pollutants to the environment." Also, MEST says that the regulation will have no negative ecosystem impacts and will promote environmental protection by reducing "the emission of oxides of carbon, nitrogen and sulphur, that result from the fossil fuel generation of electricity...[and]...are a principal cause of acid rain, urban smog and potential climate change."

MEST's decision to implement the energy efficiency standards in O. Reg. 364/00 is consistent with the goals in its SEV.

Other Information:

In 2000, MEST posted a proposal notice for another regulation under the *Energy Efficiency Act*, which would set minimum efficiency levels for two previously unregulated products (swimming pool heaters and clothes dryers) and update standards for seven other products so that they accord with new standards developed by the CSA. No decision was made on this proposal during the 2000/2001 reporting year. However, it is noteworthy that MEST is actively continuing to develop new efficiency standards.

ECO Comment:

The ambiguous elimination of the second compliance date for commercial chillers caused confusion and a lack of clarity. The Registry notice should have been amended to reflect the explanation given to the ECO.

MEST should ensure that Registry notices accurately reflect the substance of the regulations being proposed and implemented.

In order to improve accessibility to the text of proposals, the ECO recommends that MEST consider adding a hyper-link to the draft text of the regulation in future notices.

The ECO encourages MEST to continue to develop improved minimum energy efficiency standards in Ontario, and to assume a leadership role in developing these standards with other jurisdictions.

S5. -

SUMMARY OF ECO REVIEWS OF APPLICATIONS FOR REVIEW AND INVESTIGATION

2000-2001

S5

SUMMARY OF THE ECO REVIEWS OF APPLICATIONS FOR REVIEW AND APPLICATIONS FOR INVESTIGATION

2000-2001

NOTE: An allegation contained in an application may or may not have been proven to be an offence under the laws of Ontario or Canada

R0266

Review of regulations for refillable containers for carbonated soft drinks (MOE)

Review Undertaken 9/95
VERY LONG OVERDUE!

Description

The applicants wanted Reg. 340 (container regulation) and S.3 of Reg. 357 (refillable containers for soft drinks) under the *EPA* to be replaced with policies that promote effective multi-material recycling programs and packaging stewardship in general. The applicants felt that the refillable quota regulation treats the soft drink industry unfairly, and that the regulations damage the environment through negative impacts on solid waste diversion and energy use.

Ministry Response

MOE agreed in 1995 to review Regs. 340 and 357 in the broader context of overall program streamlining and planned to report its decision by early 1997.

In its 1997 report prepared for the ECO, MOE stated that the ministry had been seeking stakeholder views on alternate approaches for promoting refillable containers through its consultations as part of MOE regulatory reform exercise. In addition, MOE stated that it had referred the related issue of funding the Blue Box system and clarifying roles and responsibilities in the province's solid waste management system to the Recycling Council of Ontario (RCO).

In its 1998 report to the ECO, MOE states that it continues to consider stakeholder views on alternate approaches for promoting the use of refillable containers through the ministry's regulatory review exercise. MOE also notes that due to the complexity of this issue, the government is still considering all options for managing soft drink and other beverage containers in the province and that no decisions have yet been made on the refillable regulations.

In August 2000, MOE provided an update on R0266 in response to the 1999 draft ECO annual report. MOE stated the following:

- On November 3, 1999, the Minister announced the establishment of the Waste Diversion Organization (WDO), a partnership including representatives from industry, provincial and municipal governments, and a non-governmental organization, with a commitment of $14.5 million from its members to help fund municipal Blue Box and other waste diversion programs. The Organization will develop, fund and implement programs for composting, recycling, special household waste depots, and in the longer term, address problem wastes, such as tires, used oil and other special household wastes.
- The WDO has also been asked to develop options for a sustainable funding formula to provide up to 50% of the net operating costs for municipal Blue Box programs, as well as to continue the programs described in the WDO's Memorandum of Understanding (MOU). The WDO has also been asked to develop a special household waste management program, including options for its funding.
- The Ministry, in recognizing consumer preferences, has moved to deal with the non-refillable containers

through the Blue Box Program. The refillable soft drink container regulations are closely linked to the Blue Box Program since the regulations' refillable requirements were related to recycling rates and prompted the initial industry funding support for the Blue Box Program in 1985. The regulations will be reviewed after testing the effectiveness of the new organization. No enforcement of these regulations will occur while this review is underway.

ECO Findings/Comments
The ECO finds the six-year delay in completing this review unacceptable. The applicants are entitled to a response within a reasonable length of time. MOE's action in this case amounts to an abuse of process since the ministry appears unwilling to commit to a reasonable timeline for completion of the review.

R0334

Classification of chromium-containing materials as hazardous waste (MOE)

Review Undertaken 2/96
VERY LONG OVERDUE!

Description
The applicants requested that Regulation 347 under the *EPA* be reviewed. Under the current regulation, a waste is considered toxic if the total chromium extracted from it during a leachate test exceeds 5 mg/L. The applicants said the legislation should differentiate between toxic and non-toxic forms of chromium. Treating a non-toxic material as hazardous places an unnecessary economic burden on industry.

Ministry Response
MOE decided in 1996 to conduct a review.

In December 1997, MOE told ECO that proposed changes to a federal Transport Canada regulation will deal with this issue. MOE indicated that in the interests of federal/provincial harmonization work, and to avoid duplication of effort, it was waiting for the federal regulation to be finalized before doing its own review. MOE did not anticipate that the federal work will be complete before early 1998.

In December 1998, MOE indicated that this review would be part of the national harmonization initiative review related to the definition of hazardous waste. The ministry stated that it exercises no control over the timing of this federal initiative.

ECO Findings/Comments
The ECO finds the five-year delay in completing this review unreasonable. The applicants are entitled to a response within a reasonable length of time. MOE's action in this case amounts to an abuse of process since the ministry appears unwilling to commit to a reasonable timeline for completion of the review.

R99010

Review of O. Reg. 73/94 (under the *EBR*) to prescribe the Ministry of Education under the *EBR* (MOE)

Review Completed 12/00

Description

The applicants asked the Ministry of the Environment to review the need to prescribe the Ministry of Education as subject to the *EBR*. The applicants believe that the Ministry of Education's recent decisions to remove Environmental Science from Ontario's secondary school curriculum was made with little public consultation, and without consideration of the potential environmental impact. The applicants suggested that if the Ministry of Education was prescribed under the *EBR*, they could request a review of its policy decision to remove Environmental Science from Ontario's secondary school program.

Ministry Response

MOE said that it did not have the jurisdiction to address the applicants' concern about the removal of Environmental Sciences from the curriculum, and restricted its review to the question of whether the Ministry of Education should be prescribed under the *EBR*.

MOE reviewed how each of the major tools of the *EBR* might apply to the Ministry of Education, and came to specific conclusions for each:

- since *most* policies, Acts or regulations are predominantly fiscal or administrative, they would not have to be posted on the Environmental Registry for public comment
- only *infrequently* could an instrument have any environmental effect
- *few, if any* environmentally significant policies, Acts or regulations could be subject to the *EBR* provisions for application for review, and any citizen may write to the minister asking that a decision be reviewed, so there are other means to seek review
- contravention of Acts or regulations are *unlikely* to have environmental effects, so the provisions for application for investigation do not apply.

Emphasis added.

MOE concluded that prescribing the Ministry of Education would not achieve the purposes set MOE carried out the review and decided not to prescribe the Ministry of Education.

ECO Findings/Comments

MOE provided a weak rationale for its decision. MOE concluded that, since few of the Ministry of Education's activities are environmentally significant, prescribing the ministry under the *EBR* "would not achieve the purposes set out in that Act." MOE did not conclude that none of the Ministry of Education's decisions are environmentally significant. According to MOE's review, the Ministry of Education does make some environmentally significant decisions. If prescribed, it might have very few proposals to post on the Registry for public consultation, and few of its activities would be subject to applications for review. But this would be similar to other ministries whose core mandate is not environmental protection, but which make some decisions that could have an effect on the environment, and so are included under the *EBR*. MOE did not explain why, in the case of the Ministry of Education, this "would not achieve the purposes" of the *EBR*.

MOE also concluded that there was no need to make the Ministry of Education subject to the *EBR*'s application for review process because citizens can always write to a minister to request a review of a ministry decision. This is not a reasonable replacement for the *EBR* applications process, because the *EBR* provides a transparent, public process with timelines, oversight by the ECO and accountability to the Legislature and the public.

If the Ministry of Education were subject to the *EBR*, it would have to develop a Statement of Environmental Values and take it into account when the minister and ministry staff make environmentally significant decisions, for example, future decisions on curriculum.

MOE handled this application very poorly, taking a year to complete the review and missing deadlines on several occasions. The applicants waited a long time to find out that, because MOE does not have the jurisdiction to review decisions about school curriculum, their overriding concern about the decision to remove Environmental Sciences from the province's curriculum would not be reviewed. Many prominent organizations, including the National Round Table on Environment and Economy, have pointed out the importance of environmental education in fostering long-term sustainability initiatives.

R99011
R99012
R99013
R99014
R99015
R99016
Review of existing legislation and review of the need for one or more new policies, Acts or regulations in order to protect the Oak Ridges Moraine (MOE, MNR and MMAH)

Review Denied 5/00

Description

On March 23, 2000, two applications were submitted requesting a review of the need for a new policy, Act or regulation to effect a long-term strategy to protect the Oak Ridges Moraine. One application was submitted by the Federation of Ontario Naturalists (FON) and the Save the Oak Ridges Moraine Coalition (STORM). The other application was submitted by two City of Toronto councillors. Both applications were sent to the Ministers of Municipal Affairs and Housing, Natural Resources and Environment. Because the two applications were similar, and all six files were treated as one by the ministries in a single response, they are reviewed here together.

One application requested a review of the need for a new policy, act or regulation to protect the Oak Ridges Moraine. The other application contained a number of different specific requests:

- review of the possible use of the *Planning Act*, sections 3, 23(1), 34(1) & 47, to provide measures to protect the Oak Ridges Moraine, and
- review of the need for new policy, Act or regulation to provide environmental protection of the Oak Ridges Moraine.

They requested immediate action on the following short-term measures until a long-term strategy is in place:

- formal endorsement of the 1994 *Oak Ridges Moraine Strategy for the Greater Toronto Area: An Ecosystem Approach for Long Term Protection and Management* and
- a temporary moratorium on new development within the Oak Ridges Moraine;

and review of the following options for long-term protection of the Moraine:

- enactment of new legislation to protect the Oak Ridges Moraine; or

- designation of the Oak Ridges Moraine as a Planning Area under the *Ontario Planning and Development Act*; or
- creation of an area specific policy statement for the Oak Ridges Moraine.

As a complement to any long-term measure to protect the Moraine, the applicants also requested creation of a provincial land acquisition program to strategically purchase key properties along the Oak Ridges Moraine.

The applicants contend that the existing land-use planning laws and policies are inadequate to safeguard the ecological integrity of the ORM for several reasons, and submitted substantial evidence with their applications.

The supporting evidence shows that the province's 1991 Implementation Guidelines - Provincial Interest on the Oak Ridges Moraine Area of the Greater Toronto Area (1991 ORM Guidelines) were intended to be an interim measure while a long-term strategy was developed. The applicants included the 1994 Draft Strategy as evidence of the work that had been undertaken toward a long-term strategy, and also included relevant planning legislation and policies to describe fully the existing planning framework.

A number of existing studies were cited as evidence of the environmental significance of the Moraine and the potential harm to the environment. Technical and scientific studies include the background studies prepared between 1991 and 1994 in preparation of the 1994 Draft Strategy, plus more recent geology, hydrogeology, groundwater, natural heritage and planning studies. The 1998 Richmond Hill Corridor Study and the 1999 Report by the Regions of Peel, York and Durham also provide a 'state of the Moraine' from 1991 to 1999, describing land use patterns and increasing development activity. The applicants also included a number of OMB decisions to demonstrate the uncertain status of the 1991 ORM guidelines and their varying interpretation in individual development decisions.

Statements about the continuing need for a coordinated strategy were included in the evidence, including the 1994 Draft Strategy, the 1998 Richmond Hill Corridor Study, the 1999 Report by the Regions of Peel, York and Durham, a submission of support by 450 scientists, the Greater Toronto Services Board and other municipalities such as the Region of Halton.

Ministry Response

On May 29, 2000, the Ministers of Municipal Affairs and Housing, Natural Resources and Environment issued a notice of decision denying both applications for review. In a brief letter, the ministers said they took into account several factors:

- the 1991 ORM guidelines have been incorporated into the Official Plans each Region covering the Moraine and remain in effect
- the *Planning Act* (*PA*) was revised, and the Provincial Policy Statement (PPS) issued, in 1996, with public input
- the PPS must be reviewed by 2001
- municipalities must take into consideration the 1991 ORM guidelines and the matters of provincial interest set out in the PPS, and are accountable to local residents for planning decisions they make

The ministers stated "In closing, the provincial government is committed to the environmental integrity of the Oak Ridges Moraine. We believe the guidelines, policy and legislation comprising the current land use planning system in Ontario provides that protection. Since this sound provincial and municipal framework of policy, guidelines and legislation exists, each of us does not believe that a further review is warranted."

The letter referenced only matters under the jurisdiction of the Ministry of Municipal Affairs and Housing and did not appear to include any measures or statements relevant to the Ministries of Environment or Natural Resources, although it was signed by all three ministers.

ECO Findings/Comments

The ministers' response to these applications was grossly inadequate. The ministers disregarded the evidence submitted in support of the applications and did not respond to all the issues raised, such as the request for review of the need for a land acquisition program. Defending the existing policy framework, the ministers dismissed the requests for review out of hand.

The reasons for denying the review were unsubstantiated. For example, the ministers stated that the 1991 ORM Guidelines remain in force, but ignored the evidence suggesting they are not adequately protecting the Moraine, and the fact that the Guidelines were never intended as a long-term solution. As pointed out by the applicants, the Guidelines clearly state that they are an interim measure pending the development of a long-term strategy to protect the Moraine through some form of new provincial legislation or policy. The applicants also described new scientific and technical information amassed since 1991, as well as mounting evidence of development pressure and environmental harm. It is unreasonable that the ministries would rely on the existence of the 1991 Guidelines as a rationale for not undertaking a review.

The suggestion that municipalities and voters are responsible for protecting the Moraine through local planning decisions is deceptive and factually incorrect. The ministers failed to acknowledge the municipalities' stated concerns and the significant role of the Ontario Municipal Board (OMB). The response ignored evidence that when municipalities do try to limit development, their decisions can be appealed by developers to the OMB. Since changes to the *Planning Act* in 1996, developers can and do appeal directly to the OMB even before municipalities make final decisions. The applicants provided examples of OMB decisions to illustrate the uncertain status and ineffectiveness of the 1991 ORM guidelines, and made a strong case that ad hoc review on a case by case basis by the OMB is unsatisfactory, as it is limited to the circumstances directly associated with each particular development proposal.

In a 1999 report the Regions of York, Peel and Durham, the three upper-tier governments covering most of the Oak Ridges Moraine, concluded that municipal official plans cannot deal in a substantive and consistent manner with issues that extend beyond their boundaries. They also warned that continuing to consider development applications under the existing official plans and the 1991 ORM Guidelines would not provide long-term protection of the ecological integrity of the Moraine as a whole. Six months before the ministers turned down these applications the Minister of Municipal Affairs and Housing said publicly that the government was considering the report and that he looked forward to hearing concerns and comments on how best to proceed. "There is no doubt in anyone's mind that the moraine must be given careful and urgent attention, and that important decisions need to be made." But the ministers' letter in response to these applications dismisses the municipalities' view that they can't protect the Moraine without stronger provincial policy, and appears to contradict the minister's earlier statement that he was considering the report and the Moraine required urgent attention.

The ministers used the upcoming five-year review of the Provincial Policy Statement as one of the rationales for not undertaking a review, but the PPS does not include any mention of the Oak Ridges Moraine or treat it differently from the rest of the province. Since the applications for review, including specific requests for review of ways the *Planning Act* and PPS could be used to protect the Moraine, were denied, it does not appear that any of the issues raised in these applications will be addressed in the review of the PPS.

It is commendable that "the provincial government is committed to the environmental integrity of the Oak Ridges Moraine." But in the absence of a long-term strategy or statement of provincial policy on the Moraine, the term "environmental integrity" has not been defined, and there is no common understanding of what level of protection is necessary.

In summary, the ECO finds that these applications contained compelling evidence and strong arguments for undertaking a review. The ministries' response was inadequate. The ECO concludes that the ministries should have undertaken the requested review.

There have been recent developments on this issue. In May 2001, the government introduced a six-month moratorium on development. For details, see Ministry Comments in this year's ECO annual report.

R2000001

Review of the SWARU Incinerator's three certificate of approvals for waste disposal, ash solidification and air emissions (MOE)

"Focused" Review Due 8/01

Description

The applicants have applied for a review of the SWARU incinerator with respect to three certificates of approval – waste disposal, ash solidification, and air emissions. The applicants' concerns are related to: tonnage, fly ash, air emissions and noise and odour. The waste disposal certificate was originally issued in 1972 and has no conditions. It does not require the facility to have a device to monitor the quantity of waste it burns. The ash solidification certificate of approval allows SWARU to mix hazardous fly-ash with bottom-ash for disposal in a municipal landfill. The applicants feel there is insufficient evidence to ensure that the process used by SWARU actually renders the fly-ash non-hazardous. The applicants' main concern is about the air emissions certificate of approval. They allege that SWARU emits exceedingly high levels of dioxins, furans and other toxic substances which pose significant health risks to the community. The applicants also have a general concern about the waste disposal certificate of approval as it relates to noise and odour problems.

Ministry Response

MOE granted a focused review on August 3, 2000. The review was limited to the issues of: the potential of fugitive dust emissions from ash handling; the existence of questionable analytical data for processed ash; and the need for some administrative revisions to the Certificates of Approval.

With respect to the waste disposal site certificate of approval, MOE stated that there is no need to weigh the waste fed into the incinerator because the weight of the trucks shipping the waste is known and thus average feed rates can be estimated. As well, the incinerator is designed to control the rate of waste feed based on steam production. MOE also stated that a service area restriction is not necessary and that no exceedances of the incineration rate have occurred. With respect to hazardous and recyclable material, MOE stated waste is inspected at several points by several different parties before it is shipped to SWARU and that waste is also observed at SWARU where inappropriate items are removed. With respect to noise, MOE stated that the source has been identified and the problem will be addressed through abatement and compliance activities at the local level rather than through additional Certificates of Approval. With respect to odours, MOE stated that an abatement plan was been prepared to deal with the issue and that any future odours issues should be dealt with at the local level.

With respect to the ash solidification process, MOE stated that public documents describing the process are available and that the effectiveness of the solidification process has been verified by analysis of processed ash. In addition, sampling and analysis of treated ash, as well as reporting requirements, are required by the CofA. The data is readily available and has been provided on request. With respect to the mixing of bottom and fly ash, MOE stated that fly ash is considered to be hazardous waste and must be treated before disposal in a municipal landfill. Bottom ash can be disposed of in a municipal landfill. Once treated, fly ash is not leachate toxic and thus is suitable for municipal landfills and can be legally mixed with bottom ash since they are both non-hazardous wastes. Ash will no longer be discharged to the ground at the ash loading facility as a result of abatement initiatives.

With respect to air certificate of approval, MOE stated that Guideline A-7 does not apply to existing incinerators and that SWARU uses point of impingement concentration limits. SWARU was upgraded after Guideline A-7 was issued, and operations are as close to the guideline as possible. SWARU complies with Guideline A-7 emission limits with the exception of dioxins/furans, NO_x and SO_2. Dioxins/furans will be handled through the Canada-wide Standard which is more stringent than the Guideline A-7 limit and thus a review for SWARU is premature. SWARU does not contribute significantly to NO_x and SO_2 emissions and thus these are best dealt with as part of an overall emission reduction plan for the Region (iron and steel sector and transportation). MOE also stated that the applicants have not shown that there are health impacts caused by SWARU. Emissions comply with point of impingement concentration limits and the incinerator is not a large contributor to the Region's emissions of particulate matter, combustion gases, benzene, naphthalene and other pollutants of concern in the Hamilton-Wentworth Air Quality Initiative. Source testing, continuous emission monitoring and reporting requirements are already included as conditions in the air CofA.

MOE concluded that a full technical review of the operation of SWARU is not warranted, but that the potential for fugitive dust emissions from ash handling, the existence of questionable analytical data for processed ash, and the need for some administrative revisions to the Certificates of Approval justify a focused review.

ECO Findings/Comments
MOE estimates one year for completion of the review.

R2000002
Review of the need for a Safe Drinking Water Act (MOE)

Review Completed 10/00

Description
The applicants filed an Application for Review regarding the need for a Safe Drinking Water Act (SDWA) under Part IV of the *EBR*. The applicants argued that the public interest warrants a review of the need for a SDWA for the following reasons:

- the inadequacy of the current legislative regime
- the success of similar legislation in the U.S.
- the potential harm from unsafe drinking water to public health and safety
- to compensate for recent provincial downloading, deregulation and downsizing of MOE staff and resources
- to provide stringent prohibitions and penalties, and permit citizen enforcement of the law and the right to sue violators of the law
- to be consistent with MOE's Statement of Environmental Values
- there is no other mechanism requiring a periodic review of the need for a SDWA other than this Application for Review
- there are resources available to MOE to conduct this review since it appears that it could be carried out by existing MOE staff in the Legal Services Branch and Water Policy Branch, and the cost to the province of not conducting the review will eventually be much higher
- there are other considerations, including the recent Walkerton water tragedy and the unsuccessful attempts to establish a SDWA by earlier private members' bills.

Ministry Response
On August 25, 2000, MOE wrote to the applicants indicating that "based on all information available," they decided to conduct the review requested by the applicants, and that it would be completed by October 30, 2000. After an internal review process, MOE sent a letter to the applicants in October 2000 stating that there was no need for a SDWA in Ontario and the legislation would not be implemented.

According to MOE, the current legislative regime is sufficient in addressing the concerns raised by the applicants. It stated that the *Ontario Water Resources Act* (*OWRA*) and the *Environmental Protection Act* (*EPA*) provide measures to ensure high quality water, and the new Drinking Water Protection Regulation (DWPR) has made the Ontario Drinking Water Objectives into enforceable standards. MOE also pointed out that the DWPR requires appropriate treatment, sampling, monitoring, testing, a periodic engineering review of water works, reporting, training and public notification of all problems. The results are all available to the public and MOE stated that these provisions were placed in a regulation to allow for effective inspection and enforcement. MOE argued that there are already sufficient mechanisms in place for enforcement: penalties for non-compliance; private civil enforcement tools under the *OWRA* and the *EBR*; residents can request that MOE, MNR or another prescribed ministry under the *EBR* conduct an investigation of any alleged contravention related to drinking water; anyone who has suffered harm can sue privately for damages; and anyone affected by a statutory power of decision can apply for judicial review of the decision. In addition, MOE referred to the new *Toughest Environmental Penalties Act* as providing tougher fines and longer jail terms for major environmental crimes.

MOE also stated that the current requirements already address public health and safety considerations. According to MOE, the requirements in the DWPR regarding chlorination procedures, disinfection and chemically assisted filtration, along with the government's commitment to control a wide variety of pollutants to Ontario's waterways, will protect drinking water supplies. MOE also referred to the maximum acceptable concentrations for those contaminants which may adversely affect human health, and the requirements for sampling, testing and monitoring for many parameters that are imposed by the DWPR. Finally, MOE referred to recent consultation initiatives with the agricultural industry regarding nutrient management and a commitment to annual inspections of municipal waterworks as additional methods of ensuring safe water sources.

MOE denied that the many changes to its programs through downsizing and downloading decreased its focus on compliance. MOE also stated that staff considered its SEV in deciding whether to conduct such a review. Finally, MOE stated that the requirements in the DWPR are more stringent that those in the U.S. *Safe Drinking Water Act*, especially in the areas of public reporting, sampling and notification. These standards are based on the Canadian Drinking Water Quality Guidelines as developed by the Federal-Provincial-Territorial Sub-Committee on Drinking Water, after a period for public comment on the registry.

ECO Findings/Comment

The ECO commends MOE for deciding to undertake the review of the need for a SDWA in Ontario. This was a very timely application for review given the drinking water contamination experienced in Walkerton in May 2000. MOE recognized that the protection of drinking water quality has become an increasingly important issue in Ontario and provided the applicants with a detailed review of the application. MOE's review was six pages long and outlined the rationale for denying the need for a SDWA. The rationale was organized according to each argument raised in the application, and each request was given a separate response. Therefore, it is apparent that MOE made a good effort to address each of the applicants' concerns.

However, it is the ECO's opinion that while each concern was identified and considered, some of the responses given did not address the material substance of the concern. For example, the applicants argued that a SDWA is needed to give residents the ability to sue violators of the law or the drinking water standards. MOE responded that residents of Ontario can already sue for damages where they have suffered harm, and can use the *EBR* to sue where there has been harm to a public resource. However, the applicants were asking for a provision that residents could use to sue a violator of the drinking water standards simply for violating the standards, and not because they suffered some specific damage as a result. Such a provision would be modeled on the rights contained in the U.S. *Clean Water Act* and the *Safe Drinking Water Act*. In response, MOE contended that the *OWRA* allows residents to sue to enforce the provisions of the *OWRA* by bringing individual lawsuits. However, this only allows property owners to prosecute a polluter based on an existing discharge into or contamination of a body of water from a facility approved under the *OWRA*. To do so, the property owner must show "injurious affection." Injurious affection refers to harmful effects suffered by a land owner as a result of public works, and this usually requires the property owner to show a reduction in the value of their land. To date, this *OWRA* provision has only rarely been used, even though it has been in place for more than 40 years.

The applicants also argued for the need for a legislated right for all Ontario residents to safe drinking water. MOE responded by stating that the DWPR imposes legally enforceable limits for drinking water contaminants which may adversely affect human health. This does not address the applicants' main concern that the public have the corresponding right to take any legal action to protect its drinking water.

Finally, while MOE provided many details on the contents of the DWPR, the *OWRA*, the *EPA*, the *Toughest Environmental Protection Act* and the *EBR* to demonstrate that the issues raised by the applicants were already covered by the DWPR, it did not specifically respond to the applicants' argument that all of these provisions should be consolidated into one Act.

The applicants were also extremely frustrated by MOE's failure to communicate effectively and efficiently with them throughout the decision-making process. On September 14, 2000, approximately two and a half months after the applicants submitted their application, they wrote to MOE questioning the use of an apparently internal process of review of their application. This letter was given no formal response and the final decision against a SDWA was made by MOE on October 30, 2000.

Section 73 of the *EBR* provides that where a proposed statute is being considered in the ministry as a result of a review granted under Part IV, then the minister must consider whether the public should have an opportunity to comment on the proposal before ministry staff reach any conclusions about the need for the proposed measure. In addition, in MOE's SEV, MOE states that it is committed to open and meaningful public participation in the ministry's environmental decision-making. The minister also has a duty to ensure that the SEV is considered during the ministry's environmental decision-making, as required by S. 11 of the *EBR*. However, the minister does have considerable discretion in carrying out these duties.

In making its decision, MOE did not solicit public input nor any input from the applicants on this particular proposal. Again, although this is a matter of discretion for the minister, by not undertaking any public consultations, MOE may have missed an opportunity to obtain valuable public input on this issue. MOE could have used this review process to build on a consensus by consulting with the public on this application as well as on the DWPR. MOE could have also solicited further input by sending invitations soliciting comments from known stakeholders and posting an information notice on the Environmental Registry to announce to the general public that the review process was under way. A process such as this could have provided MOE with opinions and evidence from different stakeholders and created a more complete information base upon which to reach conclusions about the need for and content of a SDWA.

In addition to their application for review of the need for a SDWA, the applicants requested that the ECO submit a special report to the Legislative Assembly on the need to protect Ontario's drinking water. They also requested a report on innovative pollution prevention and clean water technologies available and being used in other jurisdictions in an effort to accelerate new approaches to the issues. The ECO agrees that a more complete and comprehensive overhaul of the current regulatory system for the protection of drinking water quality and supply in Ontario may be necessary, particularly in relation to the protection of watersheds that are sources of fresh water. We also agree that MOE needs to take an ecosystem approach to water quality and consider the social, economic and environmental issues.

This is an issue that is now being reviewed intensively by the Walkerton Inquiry. In May 2001 one of the applicants, CELA – along with the Concerned Walkerton Citizens group – submitted a paper to the Walkerton Inquiry, entitled *Tragedy on Tap: Why Ontario Needs a Safe Drinking Water Act,* which outlines these same issues specifically. The ECO expects that the Walkerton Inquiry will provide extensive recommendations on many issues related to the need for a SDWA and drinking water protection. The ECO looks forward to the recommendations of the Inquiry, which are expected at the end of 2001. The ECO will also monitor the implementation of the DWPR and report on any problems or concerns.

R2000003
Review of MOE enforcement policy re: waste disposal (MOE)

Review Denied 8/00

Description

The applicants alleged that, despite a December 1999 conviction, a waste collector in eastern Ontario was continuing to operate in an unapproved manner. Specifically, the owner (A&B Cartage and Container Services) was alleged to be:

i) "operating a waste disposal site (transfer) without a certificate of approval, contrary to subsection 27 (1) (b) of the *Environmental Protection Act*;

ii) failing to comply with condition 4 of Provisional Certificate of Approval A860136, contrary to subsection 186(3) of the *EPA*;"

The approach taken by the applicants was to request a review of the "Cornwall MOE (Abatement Group) enforcement policy," not an investigation of alleged contraventions by the operator. The applicants alleged that the MOE's Cornwall Area Office has not been applying the MOE Compliance Guideline consistently and diligently within its jurisdiction. Specifically, the applicants alleged that:

> "The consequences of the MOE inactions in addressing AB Cartage's non-compliance, is a continuing degradation of the environment, and lowering of environmental standards for the Cornwall Community. We have made numerous attempts to work with the Ministry on developing an effective enforcement process to bring AB Cartage into compliance, unfortunately, the response we receive is that this is not "a priority." As a result, those that live next to this illegal operation suffer, and contractors who have made a commitment to comply are at a business disadvantage to those that intentionally disregard environmental regulations."

Ministry Response

In December 1999, six months prior to the application, the owner of the company was convicted on two counts of violating the *Environmental Protection Act* relating to the company's waste transfer and disposal activities. In June 2000, MOE conducted an unannounced follow-up visit to the A&B Cartage site to determine whether the same infractions were continuing. MOE found none. In its response to the applicants, MOE indicated that the "Ministry's approach to compliance and enforcement activity is directed by MOE's Compliance Guideline for achieving and maintaining province wide compliance with MOE legislation and regulations for the protection and improvement of the environment." MOE denied the request for a review of the issues raised in this application.

ECO Findings/Comment

The applicants applied for a review of MOE's "enforcement policy" (effectively the Compliance Guideline) because of their ongoing concerns about the practices of a waste collector, A&B Cartage & Container Service, in eastern Ontario. The applicants did not request an investigation of the A&B Cartage operation – they alleged that the company was allowed to operate for lengthy periods in a state of non-compliance (i.e., operating a waste disposal [transfer] site without a certificate of approval) and that this demonstrated inaction on the part of MOE.

MOE directed the application to the Investigations and Enforcement Branch, which adopted the view that this application was a request for investigation, not a request for a policy review. In denying the request for review, MOE relied on its recent enforcement actions at this site and unannounced follow-up visit, but offered no further action or options. The ECO acknowledges MOE's effort to provide details about its enforcement activity at this specific site; however, the ECO also notes that the applicants' fundamental concerns about MOE's approach to enforcement remain unaddressed.

According to the applicants, it took a great deal of effort to ensure that MOE took enforcement action at this site in June 1999. Based on this experience, as well as alleged continuing contraventions at the same site in 2000, they submitted their request for review. MOE's response to their request provided virtually no further clarification of MOE's application of its Compliance Guideline, or what approach might be applied in the future. MOE indicated that no routine visits are required, as this is not prescribed by the Compliance Guideline (routine visits help ensure that environmental compliance is being achieved where contraventions have occurred in past). MOE's dismissive statement seems likely to reinforce the concerns that these and other stakeholders may have with MOE's Compliance Guideline.

MOE should clarify and publicize its 1998 Operational Delivery Strategy because this manual has implications for MOE staff when they apply and interpret the Compliance Guideline. MOE should also consult the public when significant changes to its compliance approach are being considered. (For more discussion of MOE's compliance activities see page X of the ECO annual report.)

R2000004

Review of current regulation and policies and/or review the need for a new regulation and policies to protect the Mellon Lake Conservation Reserve (MNR)

(Related to R2000005)

Review Denied 9/00

Description

The applicants included two individuals and three environmental groups – World Wildlife Fund, Algonquin Wildlands League and Federation of Ontario Naturalists. They requested a review of the need to protect legally the Mellon Lake Conservation Reserve, announced in March 1999, from industrial activities including mining access, staking, exploration, sampling or development.

The area around Mellon Lake in eastern Ontario, northeast of Belleville, was identified as a provinically significant Area of Natural and Scientific Interest (ANSI) by MNR in 1983 because of its size, relatively undisturbed condition and site diversity. The ANSI contains extensive rock barrens, cliffs and escarpments, wetlands and rare plant and animal species, including the Five-lined Skink, considered vulnerable in Ontario.

The area was put forward by MNR as a candidate protected area during the "Lands for Life" (LfL) land use planning process that began in early 1997. In late March 1999 the government announced the conclusion of the LfL process, and released its Proposed "Ontario's Living Legacy" (OLL) Land Use Strategy. The area was proposed for protection as the Mellon Lake Conservation Reserve. The Proposed OLL Strategy also said that existing mining claims would not be included when any of the proposed parks or conservation reserves were regulated, but would be called "forest reserves" to allow mining activities to continue.

Two new mining claims were staked within the proposed conservation reserve in early March 1999, just before MNR's announcement, making them "pre-existing mining claims" that were subsequently excluded from the Mellon Lake Conservation Reserve. The applicants submitted that the area should not have been staked while the area was being considered for protection, and because of this, the entire area should now be legally protected. In 1999 a mining company built a road through the proposed Conservation Reserve to access its mining claim areas and carried out bulk sampling (which includes blasting and removing large blocks of granite). The applicants alleged that these activities had already caused environmental damage and were inconsistent with the OLL Strategy. In August 2000 the company applied for a permit from MNR under the *Aggregate Resources Act* to operate a quarry.

The applicants requested permanent protection of the area from industrial activity and an immediate halt to all mining-related activity. The applicants suggested several ways the province could accomplish this objective under various statutes including the *Public Lands Act* (*PLA*), *Provincial Parks Act* (*PPA*), *Mining Act* (*MA*) or the *Aggregate Resources Act* (*ARA*).

The application was sent to MNR, which has responsibility for the *PLA*, *PPA*, *ARA* and the Ontario's Living Legacy Land Use Strategy (OLL Strategy), and to MNDM, which is responsible for the *MA*.

Ministry Response
MNR provided a detailed description of its reasons for deciding not to conduct a review, and a thorough response to most of the concerns and evidence of the applicants. The primary basis of MNR's decision not to carry out a review was S. 68(1) of the *EBR*. MNR said that the decision to approve the OLL Strategy and its forest reserve policies was made within the last five years, with public consultation. MNR said the policy decision – that existing mining activities would be permitted to continue within recommended conservation reserves and provincial parks – was clearly stated in the Proposed OLL Strategy.

MNR said it was aware at the time it made its decision on OLL that portions of some of the mining claim areas contained significant natural heritage values and landscapes and that there would be a potential for negative impact on those values. But the ministry had to balance a wide range of economic, social and environmental considerations, including the objective to provide greater certainty to resource industries. Further, MNR decided at the time that those environmental values would be protected through provisions of the *Mining Act* and the *Aggregate Resources Act*. MNR said that the potential for environmental harm if it did not carry out this review was low, and would be considered through the ministry's review of the *ARA* application. MNR said the public had an opportunity to participate in the review of the mineral aggregate development proposal.

MNR said that the potential for harm to the rare species, particularly the Five-lined Skink, was less than suggested by the applicants, since its habitat is widespread in Ontario. MNR pointed out that it had significantly enlarged the area it was now proposing to protect in the Mellon Lake Conservation Reserve, and this would further protect Five-lined Skink habitat.

ECO Findings/Comment
MNR considered the application seriously, and provided a detailed response to the applicants. But much of MNR's response was designed to defend the policy decisions the applicants wanted reviewed.

The Proposed OLL Strategy did set out the government's intention to allow all existing mining activities within the boundaries of the new parks and conservation reserves, and specifically noted that existing mining claims would be excluded from the proposed Mellon Lake Conservation Reserve. But the public did not know at the time of the OLL Proposal and comment period where the mining claims were located or how large they were. The public had 30 days to comment on the overall policy and the boundaries of the Mellon Lake Conservation Reserve, but no information about the location or boundaries of the proposed Forest Reserve. MNR is carrying out further consultation on the final boundaries of the Conservation Reserve, but will not revisit the mining decision during those consultations.

MNR said in its response that it was not required by ministry policy to provide interim protection until the area was proposed as a conservation reserve by the government on March 29, 1999. The ministry avoided mentioning its commitment in 1997 to provide interim protection at the beginning of the Lands for Life planning process. This commitment was stated in MNR documents, confirmed by MNR staff to the ECO in 1997, and was set out in a Memorandum of Understanding (MOU) approved and signed by both MNR and MNDM in August 1997. The MOU said provincially significant natural heritage areas would be withdrawn from staking *before* the areas were identified by MNR to the Round Tables, or their locations made public, to provide interim protection during the planning process. However interim protection wasn't provided until May 1999.

As a result of the ministries' delay in providing interim protection, almost 600 mining claims were staked in 190 of the 378 proposed protected areas, including Mellon Lake, between February 1997 and May 1999. MNR should have explained to the applicants why it decided not to implement the 1997 MOU instead of implying that earlier interim protection was never contemplated or required.

Throughout its response MNR referred to "pre-existing mining claims." Mining claims staked in 1994 on these lands lapsed in March 1999 because they were inactive. The "pre-existing mining claims" that are the subject of this application were staked on March 4 and 5, 1999 – two years into the planning process. MNR also said in its response that at no time did the Round Table recommend that pre-existing mining claims within the Mellon Lake site be regulated as a conservation reserve. This is misleading because interim protection of the area identified by MNR and then the Round Table would have prevented the new claims from being staked when the old claims lapsed in 1999.

MNR says that it is planning to protect over 8,000 ha in the Mellon Lake Conservation Reserve, an area much larger than originally proposed, to ensure that the ministry meets its target of protecting 12% of the entire OLL planning area. But the 323 ha under mining claims comprise most of the 400 ha Crown Land portion of the Mellon Lake ANSI first identified as a candidate natural heritage area by MNR to the Round Table, the core of the proposed protected area adjoining Mellon Lake.

This application highlights the inconsistencies between MNR's OLL Strategy and the guarantees provided to the mining industry by the minister of MNDM. The OLL Strategy said that "Forest Reserves are areas where protection of natural heritage and special landscapes is a priority, but some resource use can take place with appropriate conditions." But every hectare of land in the forest "reserves" contains active mining claims, and MNDM's contracts with mining claim holders guarantee that where mining properties are adjoining, partially within or totally enclosed by a park or conservation area (i.e., in a forest reserve), "the Proponent will be entitled to conduct and carry out exploration and other mining activities on its mining properties in the same manner as if the properties were located elsewhere in the Province."

Similarly, the OLL Conservation Reserves Policy says that "Necessary access to existing claims or leases for exploration or development purposes will be permitted with appropriate consideration for the protection of Conservation Reserve values." The MNDM contract appears to nullify the OLL intention to consider protection of natural heritage values. MNR did not respond to the applicants' concern that the mining company had built a road through the Conservation Reserve without obtaining a permit, and without any special conditions.

MNR said that it would consider the natural heritage values in its consideration of the *ARA* application. However the claim holder's contract with MNDM assures there will be no special consideration of environmental values. Subsequent to its decision not to conduct this *EBR* review, MNR refused to grant the requested permit under the *ARA*. The ministry refused the permit because the company did not adequately address objections filed during public consultation, but told the company they could reapply. The company reapplied for a permit in April 2001.

This conflict will probably be repeated across the OLL area as each proposed protected area is regulated, or as applications for aggregate permits are submitted. MNR is carrying out public consultation on the refinement of the boundaries for each protected area, and the *ARA* requires mandatory public consultation to be carried out by the proponents. Through its decision on this application, MNR has made it clear that it will not revisit the policy decision to allow mining claims staked up to May 1999 to be excluded from new parks and conservation reserves. MNR's response to the application was thorough, but designed to defend its earlier decision, not to evaluate the need for a review of the decision, or to consider the need for a new policy or legislative means of protecting the area as requested under the *EBR*.

This issue is discussed further in the related application R2000005, and on page XXX of the ECO annual report.

R2000005

Review of current regulation and policies and/or review the need for a new regulation and policies to protect the Mellon Lake Conservation Reserve (MNDM) (Related to R2000004)

Review Denied 10/00

Description

The applicants included two individuals and three environmental groups - World Wildlife Fund, Algonquin Wildlands League and Federation of Ontario Naturalists – all represented by the Sierra Legal Defence Fund. They requested a review of the need to protect legally the Mellon Lake Conservation Reserve, announced in March 1999, from industrial activities including mining access, staking, exploration, sampling or development.

The area around Mellon Lake in eastern Ontario, northeast of Belleville, was identified as a provincially significant Area of Natural and Scientific Interest (ANSI) by MNR in 1983 because of its size, relatively undisturbed condition and site diversity. The ANSI contains extensive rock barrens, cliffs and escarpments, wetlands and rare plant and animal species, including the Five-lined Skink, considered vulnerable in Ontario.

The area was put forward by MNR as a candidate protected area during the "Lands for Life" (LfL) land use planning process that began in early 1997. In late March 1999 the government announced the conclusion of the LfL process, and released its Proposed "Ontario's Living Legacy" (OLL) Land Use Strategy. The area was proposed for protection as the Mellon Lake Conservation Reserve. The Proposed OLL Strategy also said that existing mining claims would not be included when any of the proposed parks or conservation reserves were regulated, but would be called forest reserves to allow mining activities to continue.

Two new mining claims were staked within the proposed conservation reserve in early March 1999, just before MNR's announcement, making them "pre-existing mining claims" that were subsequently excluded from the Mellon Lake Conservation Reserve. The applicants submitted that the area should not have been staked while the area was being considered for protection, and because of this, the entire area should now be legally protected. In 1999 the company built a road through the proposed Conservation Reserve to access its mining claim areas and carried out bulk sampling (which includes blasting and removing large blocks of granite). The applicants alleged that these activities had already caused environmental damage and were inconsistent with the OLL Strategy. In August 2000 the company applied for a permit from MNR under the *Aggregate Resources Act* to operate a quarry.

The applicants requested permanent protection of the area from industrial activity and an immediate halt to all mining related activity. The applicants suggested several ways the province could accomplish this objective under various statutes, including the *Public Lands Act* (*PLA*), *Provincial Parks Act* (*PPA*), *Mining Act* (*MA*) or the *Aggregate Resources Act* (*ARA*).

The application was sent to MNR, which has responsibility for the *PLA*, *PPA*, *ARA* and the Ontario's Living Legacy Land Use Strategy (OLL Strategy), and to MNDM, which is responsible for the *MA*.

Ministry Response

MNDM apparently denied the application for review, although this was never explicitly stated. The ministry did not provide notice of its decision or a statement of its reasons to the applicants as required by the *EBR*. The ministry wrote a letter to the ECO which included a "statement of facts" regarding the mineral activities on the lands included in the Mellon Lake Conservation Reserve. The ministry's main message was that the "existing claims are in good standing." The ministry said it withdrew the entire area of the proposed Conservation Reserve from staking under the *Mining Act* in May 1999, so that if those mining claims lapse in the future, they will not be allowed to be re-staked.

ECO Findings/Comment

MNDM did not follow the minimum requirements of Part IV of the *EBR* in handling this application for review. The ministry missed deadlines and failed to provide two mandatory notices to the applicants. The ministry must improve its *EBR* procedures.

The ministry did not respond to the applicants' concerns and evidence, and the few comments provided by MNDM side-stepped the point of the application. For example, the applicants said the area should have been withdrawn under the *Mining Act* early in the planning process to provide interim protection, as per commitments made by senior MNR staff at that time. ECO review has confirmed that a commitment was made in 1997 to provide interim protection for areas such as the Mellon Lake ANSI before the locations of the candidate areas were made public and considered by the citizen Round Tables in the Lands for Life planning process. This commitment to interim protection was made both verbally and in a Memorandum of Understanding (MOU) signed by both MNR and MNDM.

As a result of the ministries' delay in providing interim protection, almost 600 mining claims were staked in 190 of the 378 proposed protected areas, including Mellon Lake, between February 1997 and May 1999. MNDM's letter in response to this application said that it withdrew the area from further staking in May 1999, "when requested to do so." This response is unsatisfactory. MNDM should have acknowledged the earlier commitment to interim protection and explained why it was not implemented, instead of implying it never existed.

MNDM also did not respond to the applicants' concern that its handling of mining activities on these claims has been inconsistent with the policies set out in the OLL Strategy for conservation reserves and forest reserves, which imply that their natural heritage values will be protected. MNDM did not respond to the concern that it did not attach any special conditions to the bulk sampling permit it issued to the company in the summer of 1999, or that its contract with the claim holder guaranteeing that mining activities would not be affected in any way by their inclusion in the conservation reserve appears to contradict aspects of the OLL Strategy. These inconsistencies between MNDM's actions and the OLL Strategy were noted by environmental groups and the ECO in 1999, and again in this application, but have still not been clarified or resolved.

Nor did the ministry respond directly to the request for a halt to all mining-related activity. But since the statement of facts confirmed the staking, issuance of the bulk sampling permit, and the claim-holder's right to develop and mine the lands, the ministry made it clear it did not intend to take any action to address the applicants' concerns. That is the ministry's prerogative, but it should have considered the application as required by the *EBR*, and provided notice to the applicants explaining why it decided not to conduct a review.

The issues raised in this application apply to many of the proposed protected areas in the OLL Strategy. This issue is discussed further in the related application R2000004, and on page XXX of the ECO annual report.

R2000006

Review of Provisional Certificate of Approval for Safety-Kleen landfill (MOE) (Related to R2000007)

Review Denied 12/00

Description

In September 2000, the applicants requested a review of the existing certificate of approval (C of A) for the Safety-Kleen hazardous waste landfill in Corunna, near Sarnia. The Safety-Kleen landfill is the only commercial facility in Ontario licensed to handle hazardous and solidified liquid industrial waste, and is the largest single receiver of hazardous waste in Ontario. It has been operating since the early 1960s and received MOE approval for a 1.9 million cubic metre expansion in 1997. The applicants are concerned about the impact of the facility on groundwater and human health. In support of their request for a review, they cited evidence of recent problems, such as the discovery in 1999 of water and methane gas seeping upwards through the clay floor of the landfill, and a number of fires at the landfill in 2000.

The applicants are concerned about the increased volumes of waste being handled at the site, and particularly about the increase in wastes imported from the U.S. Approximately 12 per cent of hazardous waste disposed of in Ontario is imported from the U.S., and most of it ends up in the Safety-Kleen landfill. U.S. waste comprised about half of the waste disposed of at the landfill in 1998. While the amount of U.S. waste imported to Ontario increased by 135 per cent between 1994 and 1998, the quantities of U.S. waste received by the Safety-Kleen landfill increased by 257 per cent.

The applicants believe the C of A is inadequate to protect the environment because:

- It does not require a full-time inspector during operating hours, unlike many smaller non-hazardous waste landfills in the province.
- It does not require a full-time geo-technical engineer on-site to oversee efforts such as the perpetual remediation and monitoring required to deal with the leak.
- It has a non-acceptable closure date, closure plan and remedial plan.
- The emergency response systems are inadequate.
- The financial security required from Safety-Kleen is grossly inadequate, compared to that required for similar sites in the U.S., to cover the worst case scenario and for perpetual care of the site when it closes.
- It does not require the treatment of hazardous waste to reduce its toxicity prior to landfilling as is required in the U.S..

Ministry Response

In December 2000 the ministry decided a review of the C of A was not warranted because it was issued within the past five years following an *Environmental Assessment Act* approval that included public consultation. The ministry said it was not aware of any new evidence since the 1997 approval that would lead the ministry to believe that failure to review the decision could result in significant harm to the environment.

Notwithstanding the above, the ministry provided comments on most of the issues raised in the application, suggesting that action was already being considered to address some of the concerns. For example, the ministry said it was discussing the need for an on-site inspector with Safety-Kleen, and that it had already advised Safety-Kleen to review its financial assurance requirements. The ministry said that it has been continually reviewing this site since its approval, and that "recent activities at the site have prompted additional changes that will become part of an amended Design and Operations Report." MOE said that any changes proposed by Safety-Kleen are required to be provided to the Community Liaison/Advisory Committee before they are submitted to the ministry for approval.

ECO Comment

MOE decided that a review of the certificate of approval was not needed. The ministry's response was unconvincing, because the ministry also said that it was constantly reviewing the site, and suggested that some of the issues would be addressed by the company voluntarily. For two issues the ministry defended the existing approval, but for most others the ministry appeared to agree changes were needed. The ministry failed to respond to some specific issues raised in the application, for example, the applicants' concern about the recent fires or leak in the landfill, except to say that "recent activities at the site" have prompted additional changes that will become part of the facility's new "Design and Operations Report."

MOE's rationale for not reviewing the C of A was that the approval was made in 1997 with public participation, that there was no new evidence that failure to review the decision could result in significant harm to the environment, and that the issues raised in the application are typical issues considered by the ministry at the time of approval. It is true that the landfill expansion was approved after a full environmental assessment process, but it was the first hazardous waste facility approved without a hearing under the *Environmental Protection Act* (*EPA*) or *Environmental Assessment Act* (*EAA*), under a regulation adopted in 1997.

The ECO review of this application concludes that the applicants did provide new evidence with the potential for significant harm to the environment, which was not addressed at the time of the approval. For example, the landfill expansion was approved in 1997 in part because the thick clay underlying the landfill was expected not to leak for 10,000 years. In 1999 a significant leak, described by MOE as a gas and water seep, was discovered in subcell 3 of the newly approved area. Since the expansion was approved, the facility has received significantly more waste annually than was predicted at the time of approval, which should require review of the predicted life expectancy of the landfill. The applicants also submitted evidence that since this approval was issued, Safety-Kleen has filed for bankruptcy protection in the U.S., and one of its facilities faces court rulings to pay out more than $100 million U.S. for environmental damage and cleanup. The applicants pointed out that the Corunna facility is required to post bonds for only $2.25 million and hold environmental liability insurance for a total of $20 million, and that additional financial assurance should be required to cover the costs of the plan for dealing with the leak, which requires pumping groundwater and monitoring the site in perpetuity. The applicants also submitted evidence of non-compliance and inadequate emergency procedures. MOE's Occurrence Reports for the facility during 1998, 1999 and 2000, examined by the ECO, provide ample evidence to support the applicants' request for an on-site inspector and better emergency response procedures than were required in the 1997 approval.

MOE said that a full-time geo-technical engineer was not needed because Safety-Kleen employs consultants, including geo-technical, and their information is submitted to the ministry in an annual report. But the ministry's own Occurrence Reports document that MOE found Safety-Kleen failed to comply with its C of A because the company did not submit a number of results of monitoring programs to the ministry in its annual reports in 1998 and 1999 as required.

MOE also said that "hazardous wastes are only required to be treated prior to landfilling if they are not solid enough to meet the requirements in the C of A." Instead of responding to the request that the C of A be strengthened to incorporate the U.S. rules for treatment of wastes before landfilling, the ministry simply confirmed that it is not presently required.

For all the other issues raised by the applicants the ministry appeared to agree that action was needed – but implied it was Safety-Kleen's responsibility to initiate the action. For example, the ministry said it was "currently considering adding the requirement for an on-site inspector and is discussing this with Safety-Kleen," but that the company was considering a number of issues including potential costs and legal implications. In response to concerns about emergency response systems, MOE said that "Safety-Kleen routinely makes efforts to improve these systems." MOE also agreed that additional financial assurance was required, but merely said it had already advised Safety-Kleen to review the financial assurance requirements because of the additional monitoring and pumping of groundwater in perpetuity to address the seep in subcell 3 This does not seem reasonable. MOE has the regulatory power to review and amend the C of A. MOE said that changes put forward by Safety-Kleen to address these issues would be codified in a Design and Operations Report submitted to the ministry for approval, but did not provide any details.

Some of the matters raised in the application have now been addressed by MOE and the company. In a follow-up with the ministry during the review of this application the ECO learned that a revised Design and Operations Report was submitted to the ministry for approval in January 2001. It contained a remediation plan for the leak in subcell 3. MOE approved the proposed remediation plan in February and issued an Order to the company requiring resubmission of a final Design and Operations Report, and a proposal for a recalculated financial assurance. In March 2001, MOE hired an inspector for the facility for a three-month period, while the ministry continued its discussion with the company to establish an on-site inspector position funded by the company.

Finally, MOE did not address the fundamental issues underlying this application. MOE did not respond to the concern about increases in imports of hazardous waste from the U.S., or increased volumes of wastes received from generators in Ontario. The ministry confirmed that because of the increase in quantities of waste received each year since 1997, the expected life span of approximately 15 years of disposal capacity had decreased by December 2000 so that there may only be approximately five years of waste disposal capacity left. The ministry response attributed the increase to "increased market demands." The ministry appears to take the position that Safety-Kleen can receive as much waste as the market produces. That demand is undoubtedly going to continue to rise, given recent changes to Ontario's rules for classifying hazardous waste (described in section 4.3 of this annual report), and because the Safety-Kleen site is licensed to accept wastes that cannot be disposed of in the U.S. without expensive pre-treatment. The ministry did not respond to the applicants' request that the C of A require treatment to reduce the toxicity of wastes before they could be landfilled, as required in the U.S. since enactment of the Land Disposal Restrictions program in 1994.

The ministry still has not addressed the need for tighter controls on land disposal of hazardous wastes. Without such action, U.S. generators of hazardous wastes will continue to send their wastes to the Safety-Kleen landfill rather than meet the more expensive requirements for treatment in the U.S.. The ministry has also not addressed the need to establish a hazardous waste prevention program to reduce the amount of hazardous waste generated in Ontario, nor started to plan for alternative disposal options. Given the expected increase in the amount of waste generated in Ontario that must now be sent to this facility as a result of changes to the way hazardous waste is classified, and rising concern about the safety of the landfill, MOE should have undertaken this review.

Undertaking a review under the *EBR* would have provided the applicants with more transparency. Instead, the applicants were informed that some changes will be made in an amended "Design and Operations Report." One month after the ministry's response to the applicants an application for approval of an amended Design and Operations Report was submitted to the ministry by Safety-Kleen. It is unclear at the time of this writing, in April 2001, whether the applicants will have a meaningful opportunity to see or comment on the Report before MOE approves it. The company is required by its C of A to provide any such documents to the Community Liaison Committee before they are submitted to the ministry. But because the landfill has been approved under the *Environmental Assessment Act*, MOE does not have to post any instruments such as amendments to its C of A on the Environmental Registry, and is not required under the *EPA* to provide any other opportunity for public consultation. Given the interest and concern expressed by the community, MOE should make reasonable efforts to provide opportunities for public participation before it issues instruments, such as its recent approval of the landfill remediation plan, or revision of the C of A to include the amended Design and Operations Report.

MOE's response to this application leaves the ECO and the applicants wondering who is in charge – the ministry or the company? Public confidence in the facility and in MOE's ability to regulate it has been shaken by recent events. To restore its credibility, MOE has to be seen to be in charge, and to be making decisions in a transparent and accountable manner.

See further discussion in the review of Reg. 558/00 found on pages XXX of the ECO annual report and in the Supplement, as well as a discussion of hazardous waste management as a "Significant Issue" on pages XXX of the annual report.

R2000007

Review of Provisional Certificate of Approval for Safety-Kleen incinerator (MOE) (Related to R2000006)

Review Undertaken 12/00

Description

In late September 2000 the applicants requested a review of the certificate of approval (C of A) for the Safety-Kleen hazardous waste incinerator in Corunna, near Sarnia.This facility is the only commercial incinerator in Ontario approved to burn most types of hazardous and liquid industrial wastes. The incinerator was built in the late 1960s and has been modified several times since. In 1998 the facility incinerated almost 70,000 tonnes of hazardous wastes, the fourth largest volume of hazardous waste received at any facility in the province.

The applicants alleged that the terms and conditions of the C of A are inadequate to protect the environment because the standards that govern air emissions are not as stringent as those of the United States. The applicants submitted that this is a cause for concern for the environment as well as for the health of those in close proximity to the incinerator. The applicants recommended that MOE amend the conditions in the C of A to reflect the more stringent standards governing hazardous waste incinerators in the United States. The applicants also included evidence showing that MOE has tougher standards for new and modified municipal (non-hazardous) waste incinerators.

Ministry Response

In December 2000 the ministry reported that it had carried out a review and concluded that this certificate of approval, in addition to the certificate of approval for air, adequately regulates air emissions by requiring that all applicable Ontario regulatory and policy standards be met. The ministry stated "the Certificate was not reviewed against United States standards as this was not considered appropriate."

The ministry also stated that the applicants had not provided any evidence, nor was the ministry aware of any such evidence, that air emissions from the Safety-Kleen incinerator are of significant harm to the environment. Further, the ministry said that stack testing and calculated emissions results provided by the company have consistently shown the facility to meet the health-based Point of Impingement (POI) requirements by a large margin.

MOE also said that new Canadian air emission standards (Canada-wide Standards or CWS) that are more stringent than those of the U.S. have been developed for application to existing hazardous waste incinerators by 2006, and Safety-Kleen has advised the ministry that it intends to achieve the new limits before 2006.

ECO Findings/Comment

The ministry said it carried out a review, but it did not do the review requested by the applicants, and its report was unsatisfactory. On the one hand, the ministry maintained that it had reviewed the existing Cs of A and found they adequately regulated air emissions, so there was no need to compare them against the more stringent standards of the U.S. On the other hand, the ministry said that new Canada Wide Standards (CWS), which would be even more stringent than the U.S. standards, would be applied to the incinerator by 2006.

MOE's assertion that reviewing the certificates against U.S. standards was not considered appropriate is inconsistent with the ministry's six-point action plan for hazardous waste. That action plan, carried out between 1999 and 2001, was supposed to include reviewing and strengthening hazardous waste facility Cs of A to match U.S. requirements. MOE also adopted U.S. standards for testing and characterizing hazardous wastes when it amended Reg. 347 in 2000. MOE's response also contradicts a statement made by the ministry in 1998 when it turned down an *EBR* request for review of the need for new standards on air emissions from hazardous waste incinerators. At that time the ministry said that new standards or a guideline were not necessary because, during the approvals process, MOE considered emission limits and new technologies for incineration from the U.S. and other jurisdictions, which could lead to applying more stringent requirements than Ontario's.

The existing Cs of A for the incinerator only require emissions to meet Ontario's Point of Impingement (POI) standards and four additional constraints. Most of the POI standards have not been updated in over 20 years. The emission limits in the Safety-Kleen Cs of A are in fact much less stringent than either U.S. standards finalized in 1999 for air emissions from hazardous waste incinerators or MOE's standards finalized in 1995 for air emissions from new and modified municipal (non-hazardous) waste incinerators. MOE said that air emissions were already regulated through the two certificates of approval, one for the waste site, first issued in 1986, and one for air emissions, first issued in 1994, and that both had been amended a number of times, most recently in 1998. The ECO notes that none of the amendments changed the allowable emission limits, and the1998 amendments actually allowed an increase in contaminant emissions to the environment by approving an increase in the amount of waste incinerated.

The ministry said that CWS will be applied to Safety-Kleen by 2006. The ministry did not explain however that new CWS have been proposed only for particulates, mercury, dioxins and furans, four of the approximately 140 contaminants emitted from the Safety-Kleen incinerator. In contrast, the U.S standards for air emissions from hazardous waste incinerators, which will be fully implemented by 2003, introduce stringent new limits for these contaminants plus volatile metals (cadmium and lead), four other semi-volatile metals, acid gases, hydrocarbons, carbon monoxide and organic residues.

The proposed new CWS standards for dioxins, furans and mercury from existing hazardous waste incinerators are more stringent than the limits applicable to existing facilities in the U.S., but at the time of writing, the dioxin and furans limits are still just proposals in Ontario. Ontario adopted the CWS for mercury, which is not expected to apply to existing hazardous waste incinerators in Ontario until 2006. It applies immediately to new or expanding facilities. Adoption of the proposed new mercury standard would reduce Safety-Kleen's mercury emissions by 94% from its current emissions, based on stack tests in 1999. But it appears that details about how the new standards will be applied to existing facilities are still being negotiated. Since the Safety-Kleen facility accounts for a significant portion of Ontario's total emissions of these toxic and persistent pollutants, meeting the proposed CWS by 2006 could make significant progress towards meeting various national, binational and international goals. Plant improvements to meet the CWS may also reduce other contaminants. The CWS standards process for ozone and particulates is discussed in sections 3.5 and 4.1.

Although not mentioned in MOE's report on the application, the ministry is currently reviewing its outdated air quality standards, including the existing POI standards. This could eventually result in changes to the limits for other contaminants of concern from this facility. However, the ECO believes that the ministry would not need to wait for the CWS or its own air quality standards initiative to review the emission limits applicable to the Safety-Kleen incinerator. MOE had already set a precedent in 1995 by setting limits more stringent than the POI standards for particulates, heavy metals (cadmium, lead and mercury) and acid gases for new or modified municipal waste incinerators.

MOE told the applicants that it was already engaged in discussions with Safety-Kleen to improve its capability to meet the CWS standards. MOE should have been clearer and informed the applicants that Safety-Kleen was planning to amend its Cs of A, and that there would be proposals posted on the Environmental Registry with comment periods. MOE did not mention in its response to the applicants that the company was planning improved air pollution controls, but was also requesting approval to incinerate more waste. The Registry proposals posted in December 2000 say that emission rates for most compounds should improve, but do not explain whether this will be offset by the increased volume of waste incinerated - i.e., will total emission loadings increase or decrease? The ECO will monitor MOE's decision on the proposed amendments.

R2000008

Review of the need for new policies, Acts and regulations governing the practice of spreading hauled septage (MOE)

Review Denied 01/01

Description

The applicants requested a review of the need for new policies, Acts and regulations pertaining to the practice of spreading hauled septage. Septage consists of untreated human waste from septic systems, holding tanks, portable toilets, and boat waste water. The applicants feel that spreading hauled septage on approved sites should be immediately discontinued until studies have been conducted which explore alternative methods of septage disposal and/or guarantee that the current method of disposal does not adversely effect public health or the environment. Regardless of whether such studies indicate that the current approach is acceptable, the applicants feel that there is a dire need for consistent policy and enforceable regulations. The applicants allege that septage disposal sites are currently unmonitored, unregulated, containing underestimated amounts of unknown materials, with uncontrolled access. The potential link between well contamination and the practice of spreading hauled septage is a major concern of the applicants.

Ministry Response

A review was denied by MOE based on the statement that the ministry is already conducting a review of the province's septage spreading program. Assurance was given that any environmentally significant proposals resulting from this internal review will be posted on the Environmental Registry for public comment at that time. The rationale given for the decision to deny a review was reasonable but severely lacking in detail and substance. Following S.67(2)(c) of the *EBR*, MOE is within its technical rights to deny the review based on the fact that *matters sought to be reviewed* (by the applicants) *are otherwise subject to periodic review*. MOE did not provide any terms of reference, time frame or description of the review(s) currently underway. The ministry did not respond to any of the applicants specific concerns nor did it provide any helpful information for follow-up.

ECO Findings/Comments

The ministry response to this application was inadequate, extremely uninformative and relatively meaningless for the applicants. While MOE acted within its technical rights under the *EBR* to deny a review based on the fact that the issues raised were being examined *through various processes already underway*. The response did not provide any indication of what was currently being reviewed, by whom, and for what end. None of the concerns of the applicants were addressed in the ministry response, leaving the applicants no better off than when they began the process. In addition, the summary of events provided by the applicants, and correspondence between the applicants and the district level MOE staff member(s), raises concerns in terms of information sharing, approachability, and transparency. Evidence presented within the application suggests (although the applicants do not specifically state this) that MOE district staff provided a poor level of service and were at times dismissive of genuine citizen concerns. Action on the part of MOE staff appeared to take place only following repeated requests by the applicants and other residents, and following MPP and minister-level involvement.

By carrying out its own internal review, MOE appears to acknowledge that the present approach to regulating septage application based on the issuance of CofAs may not be adequate to handle the complexities of the issue from an ecosystem-based approach. This application for review is closely related to the research story on biosolids management in the annual report. The ECO will continue to monitor this issue.

R2000009

Review of the Drive Clean mandatory vehicle emissions inspection and maintenance program especially with respect to light-duty vehicles (MOE)

Review Denied 02/01

Description

The applicants raised a long list of detailed concerns about the effectiveness of the Drive Clean Program, such as: the program's reliance on a controversial computer model, the alleged biased nature of the program evaluations, the inadequate transparency of the program, and the unwillingness of the ministry to share raw data, evaluation methodology or program assumptions.

The applicants believe there is strong evidence that the environmental costs of the Drive Clean Program may outweigh the benefits. The applicants suggest that if this is true, then besides being expensive, inconvenient and a heavy burden on the poor, the Drive Clean Program could be contributing to the smog it was established to abate and therefore the program warrants a full and impartial review. The applicants also have sought additional information from the MOE on the Drive Clean Program, but it is apparent the MOE has not provided the information.

Ministry Response

On January 29, 2001, MOE informed the applicants that a review would not be undertaken. MOE noted that the proposal for the Drive Clean Program was posted on the Registry in October 1997 for a 30-day comment period, but no comments were received. Also, according to the "five-year rule" established in s.68 of the*EBR*, the minister does not have to conduct a review of a decision made in the past five years as long as the decision was made in a manner consistent with the public participation scheme established by the *EBR*. One exception to this rule is that the minister can undertake a review where 1), there is new evidence that failure to review the decision could result in significant harm to the environment, and 2), it was not taken into account when the decision was made. According to the ministry, the applicants did not disclose new evidence as described in Section 68 of the *EBR*.

ECO Findings/Comments

The ministry's response was technically valid, but the ministry summarily dismissed the detailed concerns raised by the applicants, without explaining why these concerns were not "new evidence" in the opinion of the ministry. Furthermore, just 11 weeks after denying this application, the ministry did announce a major consultation on how to improve the Drive Clean program, with a 60-day comment period on the Registry.

Given the importance of the Drive Clean program, the ministry should have responded to the applicants' concerns, and should have provided the applicants with the information they had been requesting.

The decision letter was signed by the Director of the Drive Clean Office, who had a direct interest in a decision whether or not to review the effectiveness of his program. To avoid conflict of interest situations, ministries should assign such decisions to staff who do not have a direct interest in the outcome of the decision.

In response to follow-up inquiries, ministry staff did provide the ECO with information about several of the concerns raised by this application. For example, MOE staff say that Drive Clean's program-wide emission reductions will improve from the current estimate of 6.7 per cent to the targeted 22 per cent by the end of 2005. One key assumption is that the Drive Clean program will accelerate the retirement of older, more polluting vehicles. This effect is not prominent yet, because owners of polluting cars have been able to use the $200 repair cost limit and the one-time conditional pass. Once these cars require their second biennial test, however, they will need repairs sufficient to meet the emissions limits for their vehicle type and age class, and many vehicle owners may then decide to retire their vehicles instead of paying for repairs. One option under consideration by MOE is that the repair cost limit can be increased, which should increase the percentage of effective repairs to emission control systems. Another option under consideration is that the emission limits of the Drive Clean Program can be tightened, resulting in repairs to a larger population of vehicles.

MOE told applicants that the Drive Clean program is subject to ongoing review. ECO learned that this ongoing review is carried out by a contractor focused on quality assurance/quality control issues, who audits several facilities per day. But there is no public summary of this information or periodic reporting of findings. The program has also been reviewed by an independent U.S.-based auditor, who focussed on improving the efficiency of the program. A short technical report also exists, reviewing Drive Clean's first-year results, and prepared for MOE by B.C.'s Air Care program. MOE shares this report with the public only when it is specifically requested, but since it is not referenced in Drive Clean's Website pages, or in MOE's on-line list of publications, few members of the public would know that it exists. The report does refer in passing to some of the assumptions the ministry made when estimating emission reductions, but no comprehensive list of these assumptions has been made public.

The ministry also described to the ECO the public consultation with selected stakeholders that had taken place during the formative stages of Drive Clean. Aside from a 30-day Registry posting in 1997 (which received no comments), public consultation on Drive Clean occurred through a Minister's Advisory Committee, which met several times during the development of the program. But this committee did not meet formally in fiscal year 2000/2001.

Ministry staff also stated that although critics have described weaknesses in the computer model on which Drive Clean is based (U.S. EPA MOBILE 5C), it remains the best model currently available. Models by definition are based on certain assumptions, and collecting real-life data to validate all the assumptions would be prohibitively expensive. For example, one acknowledged limitation of the model is that it is based on test vehicles driven to very high mileage at a young age, which does not necessarily provide the same emissions effects as vehicles aged normally and exposed to a lifetime of corrosive road salt.

In the interest of transparency, MOE should have provided the applicants with the quality of explanation and information that was later provided to the ECO. Neither applicants nor public policy development are well served when ministries refuse to give their reasons for denying applications for review.

R2000010
Review of the need for a new policy, Act or regulation to enable, encourage or require municipalities to pass anti-idling bylaws (MOE) (Related to R2000011)

Review Denied 2/01

Background

The applicants proposed that MOE pass a policy or law under the *Environmental Protection Act* (*EPA*) to enable, encourage, or require municipalities to pass anti-idling by-laws. Their application is based on their concerns about the amount of harmful pollutants that are produced by needless idling of vehicle engines in the province of Ontario. The applicants outlined their arguments in a report they prepared for the City of Burlington, Community Development Committee, entitled "Knowing the Difference a Minute Makes!" Based on statistical data collected by Natural Resources Canada, they say that if each light duty vehicle in Ontario idled for one minute less each day in 1999, the final savings would be seven times greater than what was saved by the Ontario Drive Clean Program. They requested a formal review of the cost/benefit value of the Drive Clean Program as they consider their idea to be an initiative that is more cost effective and worthy of greater priority.

The applicants cited the following reasons for their request for an anti-idling law.

- It would help many Ontario citizens understand that the driving habits of each motorist make a difference.
- Needless idling causes known damage to human health and the environment.
- The ECO stated in its 1998 annual report "Open Doors" that the province needs to carry out much more than a Drive Clean program to reduce the threat that vehicle emissions pose to human health and climate change.

- The Drive Clean Program has very high costs and very low benefits to date and should be replaced with a crackdown on needless idling.
- It would reduce the effect of vehicle emissions on the Great Lakes; including the effects of the carcinogen benzo(a)pyrene created by incomplete combustion in motor vehicles.
- It would reduce the costs in Ontario from hospital admissions, emergency room visits and absenteeism due to smog.
- It would help Canada meet its promises under the 1997 Kyoto Protocol to reduce emissions of greenhouse gases to 6 per cent below 1990 levels by 2008-2012.
- Legislation would be more effective at changing behaviour than a large-scale information campaign aimed at volunteerism.
- It would reduce the consumption of fossil fuels in Canada.

Ministry Response

MOE decided that it would be inappropriate for the ministry to consider any new legislation under the *EPA* prior to MMAH's concluding its ongoing, public review of the *Municipal Act*. MOE explained that a review of anti-idling by-laws would be more appropriate under the *Municipal Act*. According to MOE, while control of air pollution and emissions in general is a provincial matter under the *EPA*, control of nuisances and the regulation of municipal highways are under municipal jurisdiction. MOE noted that most anti-idling by-laws are passed under Section 102 of the current *Municipal Act*, which authorizes a municipal council to pass by-laws and make regulations for the health, safety and welfare of the inhabitants of the municipality. MOE also referred to MMAH's review of the municipal role in protecting the natural environment, controlling nuisances, and regulating the use of highways. Therefore, MOE deferred its decision in anticipation of a revised *Municipal Act* that addresses the role and powers of municipalities.

ECO Findings/Comment

A number of municipalities have implemented anti-idling by-laws, including Toronto, Montreal and Caledon. The Regional Municipality of Hamilton-Wentworth is in the process of considering an anti-idling by-law, and the City Council of Stratford supported the prohibition of idling for longer than five minutes.

MOE is correct in stating that anti-idling by-laws, including those above, are usually passed under Section 102 of the *Municipal Act*, which states: "Every council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by this Act and for governing the conduct of its members as may be deemed expedient and are not contrary to law." However, some municipalities have viewed this section as an impediment to the creation of anti-idling by-laws, as those created under this section have been revoked by the province. It remains unclear whether this section is broad enough to actually permit municipalities to enact such by-laws. They fear that after spending the time and resources to enact the by-laws, they will be revoked by the province on policy grounds or the courts will strike them down because the municipalities lack jurisdiction.

There are clearly some situations in which idling should not be prohibited, but MOE could have reviewed the need for a policy to develop public education about the effect of vehicle emissions. It has been consistently shown that air pollution from vehicle emissions adversely affects both human and environmental health. According to NRCan, it is estimated that approximately 12 per cent of smog results from idling.

The proposal by the applicants is a valid way to reduce the contribution to smog levels by vehicle emissions and the generally high consumption of fossil fuels in the province. One of the main purposes of anti-idling by-laws is to make people aware that vehicle engines left idling contribute to climate change and to poor air quality. In the City of Toronto, the introduction of the idling control by-law was accompanied by a public education and implementation plan run by the Public Health Department since they found that, "In many instances, an effective educational campaign reduces the necessity for enforcement and increases compliance with the by-law through changes in behaviour." MOE could have developed a program to educate the Ontario public about the effects of unnecessary idling.

The applicants also requested a review of Ontario's Drive Clean Program – the province's current initiative to address the environmental issues caused by vehicle emissions. MOE did not respond to this concern. Comparing the effectiveness of Drive Clean to reducing idling by vehicles could be part of a solution to the harm caused by excessive vehicle emissions, and MOE should have given this request further consideration.

R2000011

Review of the need for a new policy, Act or regulation to enable, encourage or require municipalities to pass anti-idling bylaws (MMAH) (Related to R2000010)

Review Denied 2/01

Description
The applicants proposed that MMAH pass a policy or law under the *Municipal Act* to enable, encourage, or require municipalities to pass anti-idling by-laws. Their application is based on their concerns about the amount of harmful pollutants that are produced by needless idling of vehicle engines in the Province of Ontario. The applicants outlined their arguments in a report they prepared for the City of Burlington, Community Development Committee, entitled "Knowing the Difference a Minute Makes!" Based on statistical data collected by Natural Resources Canada, they say that if each light duty vehicle in Ontario idled for one minute less each day in 1999, the final savings would be seven times greater than what was saved by the Ontario Drive Clean Program. They requested a formal review of the cost/benefit value of the Drive Clean Program as they consider their idea to be an initiative that is more cost effective and worthy of greater priority.

The applicants cited the following reasons for their request for an anti-idling law.

- It would help many Ontario citizens understand that the driving habits of each motorist make a difference.
- Needless idling causes known damage to human health and the environment.
- The ECO stated in its 1998 annual report "Open Doors" that the province needs to carry out much more than a Drive Clean program to reduce the threat that vehicle emissions pose to human health and climate change.
- The Drive Clean Program has very high costs and very low benefits to date and should be replaced with a crackdown on needless idling.
- It would reduce the effect of vehicle emissions on the Great Lakes; including the effects of the carcinogen benzo(a)pyrene created by incomplete combustion in motor vehicles.
- It would reduce the costs in Ontario from hospital admissions, emergency room visits and absenteeism due to smog.
- It would help Canada meet its promises under the 1997 Kyoto Protocol to reduce emissions of greenhouse gases to 6 per cent below 1990 levels by 2008-2012.
- Legislation would be more effective at changing behaviour than a large-scale information campaign aimed at volunteerism.
- It would reduce the consumption of fossil fuels in Canada.

Ministry Response
MMAH explained that they had been engaged in a review of the powers and responsibilities of municipalities generally over the last five years and have identified concerns with the power of municipalities to pass anti-idling by-laws. MMAH states that their ongoing review involved consultation with municipalities and stakeholders with a view to developing a new *Municipal Act*. Among the issues considered was the municipal power to address issues pertaining to the natural environment, roads, nuisance, dust and odour. MMAH identified the following concerns:

- enforcement: an official would have to view a vehicle continuously to conclude that it has been idling for more than the period set out in a by-law (given that enforcement would be labour intensive and require extensive resources, it is unlikely that municipalities will be in a position to enforce these by-laws vigorously);

- idling controls could have a significant impact on the operation of commercial vehicles which may affect economic development of municipalities;
- idling controls could negatively affect the operation of urban and intercity bus transportation; and
- there could be confusion resulting from a wide variation of idling by-laws in municipalities across the province.

MMHA stated that the information provided by the applicants would become part of the review of the *Municipal Act*.

ECO Findings/Comment

The arguments raised by MMAH are not very strong. Furthermore, they do not appear to have been considered by either MMAH or MOE in their decisions to assign greater land use planning responsibilities to municipalities or responsibility for noise, odour, or dust complaints. There are a number of municipalities that have implemented anti-idling by-laws, including Toronto, Montreal and Caledon (a noise by-law). The Regional Municipality of Hamilton-Wentworth is in the process of considering an anti-idling by-law, and the City Council of Stratford supported the prohibition of idling for longer than five minutes.

These by-laws were passed under section 102 of the *Municipal Act*, which states: "Every council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by this Act and for governing the conduct of its members as may be deemed expedient and are not contrary to law." This section has also proven to be an impediment to the creation of similar anti-idling by-laws in other municipalities as it remains unclear whether this section is broad enough to actually permit municipalities to enact anti-idling by-laws. Moreover, some municipalities fear that after spending the time and resources to enact the by-laws, they will be revoked by the province on policy grounds or the courts will strike them down because the municipalities lack jurisdiction. For example, in late 1997 MMAH passed O.Reg. 352/97, which prevented municipalities from imposing charges for the management of waste materials on anyone other than the person who actually discards the material, or unless the charge related to the clean up of illegally disposed waste.

The changes proposed by the applicants are a valid approach to dealing with the contribution that vehicle emissions make to smog and the province's over-consumption of fossil fuels. While enforcement mechanisms might be a challenge, they do not invalidate the potential benefits of anti-idling by-laws. One of the main purposes of such by-laws is to make people aware that vehicle engines left idling contribute to climate change and to poor air quality. In the City of Toronto, the introduction of the idling control by-law was accompanied by a public education and implementation plan run by the Public Health Department since they found that, "In many instances, an effective educational campaign reduces the necessity for enforcement and increases compliance with the by-law through changes in behaviour.

A proper review of the need for a provincial policy or law that would give municipalities the express power to pass anti-idling by-laws would clarify the current situation. Such legislation could also be designed to ensure that there was consistency between municipalities and that the by-laws were readily enforceable. The applicants requested legislative change as well as a review of Ontario's Drive Clean Program – the province's current initiative to address the environmental issues caused by vehicle emissions. These actions have the potential to help solve the problem of pollution caused by excessive vehicle emissions, and MMAH should have given the application greater consideration. It is encouraging that MMAH is considering the issue in its work on the creation of a new *Municipal Act*; however, they have suggested that they are opposed to the idea of anti-idling legislation.

R2000012
Review of the need for changes to the *Municipal Act* pertaining to fees and limits imposed on information requests about the environment (MMAH)

Review Denied 3/01

Description
The applicants requested a review of the need for MMAH to change the *Municipal Act* to prevent municipalities from imposing user fees for the release of information that could show the *Planning Act* was being contravened. The applicants were concerned about certain developments taking place for which permits may not have been issued. However, they were unable to verify this information without having to pay a fee to the local municipality. The applicants claim that the information they requested is required to establish if a law has been broken and that information which could reveal negative impacts on the environment should be accessible without having to pay a fee. It should be noted however that, prior to submitting their application, the applicants had exceeded a municipally established quota of 24 requests per year.

Ministry Response
MMAH responded as follows: "The ministry has been engaged in a review of the powers and responsibilities generally over the last five years with a view to developing a new Municipal Act. There has been extensive consultation with stakeholders. Among the issues considered is user fee powers. Specifically this issue has been considered with respect to accountability, fairness and public input in the development of user fees. In closing, the ministry has and continues to review matters related to municipalities developing user fees. Therefore, a further review is not warranted at this time. However, we do appreciate your concern and your information will be included in the on-going review, which we hope will culminate in a new Municipal Act."

ECO Findings/Comment
The ECO agrees with the contention that information required to establish whether a law has been broken should be accessible to the public with few impediments. However, very little information on the MMAH review of the *Municipal Act* was provided, neither background to it, terms of reference, nor any information related to Registry postings. No contact name was provided nor was a mechanism provided for applicants to get further information on it.

The ECO found the MMAH response somewhat dismissive and this appears to relate to prior experience with one of the applicants, who had generated a large amount of correspondence in recent months. On the other hand, it should be noted that the application was sketchy and the allegations not well supported.

R2000013
Review of O.Reg. 681/94, *EBR* Instrument Classification Regulation (MOE)

Decision Due 5/01

TO BE REVIEWED IN 2002

Description

Ministry Response

ECO Findings/Comments

R2000014
Review of the existing policy on electricity market reform, in particular as it pertains to the *Energy Competition Act*, the application of the *EAA* and changes made to the Ontario Energy Board (MEST)

Review Denied 5/01
TO BE REVIEWED IN 2002

Description

Ministry Response

ECO Findings/Comments

R2000015
Review of the existing policy on electricity market reform, in particular as it pertains to the *Energy Competition Act*, the application of the *EAA* and changes made to the Ontario Energy Board (MOE)

Review Denied 5/01
TO BE REVIEWED IN 2002

Description

Ministry Response

ECO Findings/Comments

R2000016
Review of the existing policy related to the Ontario Drinking Water Standard for TCE in so far as a remedy is required to reduce TCE toxicity in humans and aquatic life

Decision Due 6/01
TO BE REVIEWED IN 2002

Description

Ministry Response

ECO Findings/Comments

197007: Alleged violations by Ontario Hydro of the federal *Fisheries Act* (MNR)
197009: Alleged violations by Ontario Hydro of the federal *Fisheries Act* (MNR)
197013: Alleged violations by Ontario Hydro of the federal *Fisheries Act* (MNR)

Investigation Completed 5/00

Descriptions

In 1997, the applicants, which included local residents, the Town of Pickering, and a coalition of environmental groups, alleged that Ontario Hydro (now known as Ontario Power Generation or OPG) violated subsection 36(3) of the *Fisheries Act*, which prohibits the deposit of a deleterious substance of any type into water frequented by fish. Specifically, the applicants alleged Ontario Hydro has discharged large quantities of metal contaminants through the erosion of Admiralty brass condenser tube walls in the condenser cooling water system at several power generation stations. Admiralty brass is an alloy composed of 72 per cent copper, 27 per cent zinc, 1 per cent tin, 0.07 per cent lead, 0.06 per cent iron and 0.04 per cent arsenic.

The alleged discharges included the release of these constituent elements from the Pickering, Lakeview, Nanticoke, Lambton and Bruce A power plants into Lake Ontario, Lake Erie and the St. Clair River. It was alleged that Ontario Hydro did not take any steps to prevent the discharges even though they were aware of the occurrence of the discharges over the past twenty years. Ontario Hydro is alleged to have failed to report the discharges and to have provided false information to the Ministry of the Environment (MOE).

Ministry Response

In August 1997, MNR undertook a single investigation in response to the three applications for investigation. At that time MNR advised the applicants that the estimated completion date was early 1999. The completed investigation was submitted to the ECO in April 2000, nearly three years later.

MNR submitted the results of its single investigation on May 29, 2000, to the applicants and OPG, with copies to the ECO and the federal Department of Fisheries and Oceans (DFO). MNR produced a report documenting the outcome of the investigation and recommendations, which focussed on whether the concentrations of copper and zinc in the aquatic environment of the Great Lakes have affected or are likely to affect:

- the consumption of sport fish
- the commercial sale of fish
- the health of fish and other aquatic organisms.

MNR's investigative report concluded that, generally speaking, copper and zinc do not pose a serious threat to the human consumption of sport fish, the commercial sale of fish, nor the general health of fish in the Great Lakes system. In addition, MNR has concluded that with existing data and scientific knowledge, it would "not be possible to demonstrate, beyond a reasonable doubt, that the discharge of copper and zinc had, or is likely to have a negative effect on local aquatic organisms." Also because copper and zinc are biologically needed by aquatic organisms, MNR concluded that there is reasonable doubt as to whether the discharged metals constituted a "deleterious substance" as defined by the *Fisheries Act*. Further, MNR stated in additional documentation provided to the ECO that:

> *Lake-wide information regarding the impact on aquatic organisms (fish), the level of contamination of fish flesh and the implications for human consumption of these fish (sport and commercial fisheries consumption guidelines) were valid considerations because:*
>
> - *any water discharged by OPG containing heavy metals would disperse widely through wind, current and wave action;*
> - *many fish species do not stay resident and move widely, and;*
> - *there are a number of potential sources besides OPG for metals such as copper and zinc.*

The report also determined that MOE was informed of the discharges in 1996. According to the applicants, this reporting occurred some 15 years after internal Ontario Hydro memos indicated that staff and management were aware of the corrosion of the condenser tubes and the discharge of the constituent parts of the admiralty brass. The provision of false information and/or failure to disclose to MOE the erosion/corrosion problems associated with the admiralty brass condenser units was addressed in MOE's refusal to undertake *EBR* investigation I97012, a summary of which was included in the ECO's 1998 annual report. This allegation does not constitute an offence under the *Fisheries Act*.

MNR stated that it has requested the DFO to consider whether it would be appropriate to develop new regulations under the *Fisheries Act* to regulate the deposit of metals into water by generating stations and other similar industries. Recent developments related to MNR's request to DFO have been reported by MNR to the ECO. MNR stated in July 2001 that Environment Canada, which administers Section 36 of the *Fisheries Act* in agreement with DFO, does not view regulations as being required for non-contact cooling water discharges.

ECO Findings/Comments

It is the opinion of the ECO that Ontario Hydro should have been prosecuted for contravention of Section 36(3) of the *Fisheries Act*. MNR's investigative report implicitly asserted that the Crown's standard of proof for prosecution is evidence of adverse effect beyond a reasonable doubt. This is incorrect. Under the *Fisheries Act*, there is no need to show an adverse effect. If it is evident that a deleterious substance has entered waters frequented by fish, then the only legal defence applicable is that of due diligence.

MNR's assertion that it would not be possible to demonstrate "beyond a reasonable doubt" that the discharge of copper and zinc had or is likely to have a negative effect on local aquatic organisms is invalid. The ECO has concluded that MNR inappropriately applied the *EPA* standard for Section 14, which stipulates that evidence of adverse effects beyond a reasonable doubt must be demonstrated by the Crown in order for prosecution to take place.

Ontario Hydro knowingly allowed the release of deleterious substances to continue following its initial discovery of the problem in 1981. Ontario Hydro has admitted that the discharges took place, and the evidence presented by the applicants supports the ECO's conclusion. The evidence suggests that Ontario Hydro failed to act with due diligence in this regard. The suppression of the results from an Ontario Hydro-initiated study on the effects of metals discharges on caged fish within the cooling waters at the Pickering generating plant, which showed copper uptake in the livers of caged fish, further discredits a due diligence defence. Ontario Hydro's expert panel concluded that while these high liver copper levels may result in adverse effects in the fish population, fish liver is not considered a primary source of human food and, therefore, not expected to pose a risk to human health. Subsequent fish sampling and analysis indicated that "there is no problem of elevated copper and zinc concentration in the tissues of fish from the discharge facility relative to the reference facility."

In addition to the above, the ECO remains concerned with the excessive length of time taken (almost three years) for MNR to complete its investigation. MNR's delay in providing the results of its investigation has frustrated the applicants' rights under the *EBR*, and has constrained their opportunities to pursue alternative legal action due to the two-year statute of limitations on *Fisheries Act* violations.

The ECO supports MNR's decision to undertake an investigation, but finds the scope of the investigation and the investigative report produced to be less than adequate. MNR's investigation relied too heavily on outdated, or at least dated, scientific sources and secon-hand information and sampling data – in part provided by the alleged primary violator – Ontario Hydro. MNR did not undertake any independent sampling that would have been more representative of the site-specific effects of metals discharge into the receiving waters of power generating stations in the Great Lakes system. MNR has stated, however, that information provided by Ontario Hydro followed standard data collection methods.

MNR's investigative report lacked substantive rigour and original data and used an inappropriate interpretation of the law. In addition to the weaknesses noted above, the report consisted of much irrelevant information on parameters based on fish sampling data from lake-wide studies, rather than point source analyses. The result was a "padded" discussion of aquatic toxicity facts which generically apply to any Ontario lake, river or stream. The conclusions and recommendations made by MNR also did not specifically address the issue of the magnitude of the discharges and the possible ramifications of synergistic effects from the exposure to a combination of the released metals (especially copper and zinc) on local aquatic ecosystems.

The ECO 1997 annual report credited Ontario Hydro with progress in replacing the brass condensers, and in addressing the "gaps and inadequacies in (its) management system in the areas of environmental accountability and awareness." The ECO has been assured by Ontario Power Generation that the admiralty brass condenser tubes are no longer in use at any of its operating power generating stations.

The ECO will continue to monitor the results of MNR's request to DFO for the review of the need for new *Fisheries Act* regulations related to setting limits and standards for the deposit of metals by generating stations and other industries, similar to those already in place regulating the deposit of metals by the mining industry, into waters frequented by fish. Despite MNR's proactive request for regulatory reform of industrial metals discharge standards, MNR's investigation of Ontario Hydro distinguishes itself as one of the most delayed, unresponsive, and substantively lax investigations in the history of the *EBR*. See Ministry Comments in the ECO annual report.

I99008: Alleged violations of the *OWRA*, *EPA* and *EAA* by Brian Smith (Snow Valley Ski Resort) through road and sewage system construction (MOE) (Related to I99002)

Investigation Due 4/01
OVERDUE

Description
In March 1999 the ECO received an application for investigation from two Minesing residents concerned with the road construction and sewage disposal system installation at the nearby Snow Valley Ski Resort, north of Barrie. In particular the applicants alleged that the Snow Valley Ski Resort and its owner violated the *Environmental Assessment Act (EAA)*, the *Environmental Protection Act (EPA)* and the *Ontario Water Resources Act (OWRA)* in the following ways:

- no Environmental Assessment performed prior to construction of a road in a Class I-III wetland, in alleged violation of Ontario Regulations 334 and 345 of the *EAA*;
- failed to register on title an easement established by the Simcoe County District Health Unit, in alleged violation of Ontario Regulation 358 of the *EPA* for an instrument created under subsection 27(1) of the *OWRA*;
- undertook building expansions without septic approvals, in alleged violation of section 30 and subsection 53(1) of the *OWRA* and section 14 of the *EPA*; and
- withdrew more than 50,000 L/day of water without a permit, in alleged violation of subsection 34(3) of the *OWRA*.

Ministry Response
MOE undertook the investigation. In a letter dated July 13, 1999, MOE indicated that its Abatement section had completed its investigation, and had forwarded the matter to the Investigations and Enforcement Branch for their consideration. MOE expected the investigation to be completed by July 22, 2000. Meanwhile, MOE notes that it issued a Field Order to require certain work to be done to address some of the concerns raised in this application for investigation. MOE may order further work, pending results from the initial field order.

In November 2000, MOE finally advised the applicants and the ECO that the Investigations and Enforcement Branch was still investigating the matter, and that the anticipated completion date was March 31, 2001. ECO staff confirmed on May 17, 2001, that the investigation had not been completed, and also confirmed that no follow-up letter to the November 2000 correspondence had yet been sent to the applicants.

ECO Findings/Comments
The ECO will review this application once the MOE investigation is complete.

I2000001
Investigation into the alleged discharge of sound by Cook's mill causing an adverse effect (MOE)

Investigation Due 3/02

Description
The applicants allege a discharge by Cook's mill of a contaminant (sound) into the natural environment, causing an adverse effect in contravention of the *Environmental Protection Act* and two certificates of approval issued to the company. The Goudie's residence is next door to the mill operation, which has grown in size over the past 30 years, continually getting closer to the Goudie residence.

The applicants claim that the violations have caused and continue to cause serious adverse health impacts to themselves and their children, including severe cumulative health impacts such as hearing loss, psychological stress, depression, memory loss, inability to concentrate, irritability, anxiety, loss of sleep and learning difficulties. They also claim that the contraventions have caused and continue to cause loss of normal enjoyment of their property, including inability to use their garden and deck in a normal fashion, and the need to keep their windows closed in the summer and wear ear plugs.

Ministry Response
MOE has committed to undertake an investigation with an estimated completion date of 3/02.

ECO Findings/Comments
The ECO will review this application once the MOE investigation is complete.

I2000002
Alleged *EPA* violations at the Irondale Landfill (MOE) (Related to I2000003,4, R97001, I97003)

Investigation Undertaken 01/01

Description

In October 2000, the ECO received an application for investigation in which the applicants alleged contraventions by the former Township of Snowdon of the *Environmental Protection Act (EPA)* Regulation 347 Sections 11 and 13, and the Certificate of Approval (CofA) issued for the Irondale Landfill site located near Minden, Ontario.

Specifically, the applicants alleged the following:

- stockpiling of waste;
- use of contaminated material (automotive shredder residual) as cover for an extensive period of time;
- lack of regular application of cover;
- lack of proper supervision of the landfill by MOE, and;
- lack of control of the waste stream.

The applicants alleged that the following sections of Reg. 347 have been contravened:
Section 11:

- 11(3) - Drainage passing over or through the site shall not adversely affect adjoining property and natural drainage shall not be obstructed;
- 11(4) - Drainage that may cause pollution shall not, without adequate treatment, be discharged into watercourses;
- 11(6) - Where necessary to isolate a landfilling site and effectively prevent the egress of contaminants, adequate measures to prevent water pollution shall be taken by the construction of berms and dykes of low permeability;
- 11(7) - Where there is a possibility of water pollution resulting from the operation of a landfilling site, samples shall be taken and tests made by the owner of the site to measure the extent of egress of contaminants and, if necessary, measures shall be taken for the collection and treatment of contaminants and for the prevention of water pollution;
- 11(13 - Waste shall be deposited in an orderly manner in the fill area, compacted adequately and covered by a proper landfilling operation;
- 11(14) - Procedures shall be established for the control of rodents or other animals and insects at the site.

The applicants also alleged contravention of Section 13, which provides the standards for the location, operation and maintenance of a "dump." The Irondale site was originally operated as a "dump" in the 1950s and was re-classified as a "landfill" in 1980. The applicants alleged that the requirements for a landfill had repeatedly not been complied with by the owner/operator of the site, and that the state of the site was best described as a "dump."

Ministry Response

MOE's investigation concluded that the CofA was not complied with on a total of nine occasions. Specifically, MOE determined, through review of the Township's waste coverage records for the months of April, June, July, August, September, October, November and December 2000, that waste was covered on only 12 occasions rather than the required 14. Cover was also applied one to six days late on several occasions.

MOE's site review determined that subsection 11(13) of Reg. 347, which requires that the waste be deposited in an orderly manner in the fill area, and be adequately compacted and covered, had not been violated. Waste was, according to MOE, being segregated according to the type of material. Peterborough District Office staff inspected the landfill on December 1, 2000, and their inspection notes recorded good segregation of the waste stream and compaction of the waste, using an automotive shredder residual/sand/soil mixture. No evidence of subsection 11(14) (rodent or other vectors) contravention was found during the MOE inspection. However, MOE noted that regular cover, in accordance with the requirements of the CofA is required to control animal activity at the site.

The applicants' concerns regarding the 1996 CofA amendment, which permitted the acceptance of 6000 tonnes of automotive shredder residual (a registerable non-hazardous solid waste) from Whitby Auto Wreckers, and the 1998 CofA amendment which permitted the use of the shredder residual for cover material, were addressed in MOE's investigative report. MOE indicated that the petroleum-contaminated soils from the Whitby site were permitted to be deposited in landfill sites for disposal provided the definition and toxicity of solid non-hazardous waste in Reg. 347 were met. MOE indicated that the shredder residual has been tested and classified as a solid non-hazardous registerable waste and is not a hazardous, toxic industrial waste. MOE stated that it has not considered it necessary to test the shredder waste since 1994, "as it is not expected to change as a result of being stockpiled at the landfill." MOE acknowledged that the Township discovered that much of the shredder residual was contaminated with other automotive parts that should have been removed prior to reaching the landfill. The Township, according to MOE's inspection report, has attempted to remove all tires with rims from the shredder material and have had a waste hauler take this material away to an approved receiving facility.

The applicants also alleged that the quality and nature of the automotive shredder residual were misrepresented by the Township to the local residents by providing a sample to the residents that was not representative of the quality of the actual material that was accepted by the landfill and used as cover. MOE acknowledged in its investigative report that the Township of Snowdon held an open house to allow residents the opportunity to learn about the proposal to accept the automotive shredder residual in November 1996. MOE stated the following within the report: "while the MOE is aware that the Township displayed a sample of the material at the open house, no comment can be made as to whether the display sample was representative or not as MOE staff did not witness the collection of the sample or the displayed material." MOE also stated that the ministry took into consideration the comments of the public and the consultant's report, including the analysis of the material prior to issuing the 1996 CofA amendment, which permitted the one-time disposal of the shredder residual into the landfill.

The MOE inspection noted that tires were found on the site, but less than the alleged number of 5,000 tire units. MOE stated that it is acceptable for tires to be accumulated until a tire hauler picks them up. MOE concluded: "in any event such tires are included in the categories of waste permitted to be buried at the site under the existing provisional certificate of approval." In addition, MOE reported that no unapproved waste types were observed during the December 2000 site inspection.

Finally, MOE reported that the Township has begun to undertake Ground and Surface Water monitoring around the landfill, yet it failed to submit a report to MOE in accordance with the requirements of the CofA. MOE reported that a Provincial Officer Order was issued to the Township of Snowdon and that it has since submitted the 2000 Annual Report to MOE in March 2001. The report apparently contains a summary of all the sampling done to date and has been sent to MOE's Technical and Support area for a "thorough review to determine if the landfill is having an adverse effect on the surrounding environment and whether the monitoring program that the [Township's] consultant is using is acceptable."

The investigative report prepared by MOE concluded that the Township was not in full compliance with the CofA. The applicants were correct in their allegations of improper coverage of municipal waste at the site. In addition, the investigation concluded that a litter control fence was not being used around the working face of the landfill, that the sign at the entrance did not conform to the CofA requirements, a detailed proposed monitoring program had not been submitted to the Director, and an annual report on the landfill operation for 1999 had not been submitted to MOE. A Provincial Officer Order from the Peterborough District Office of MOE has been served to the Township to bring the landfill into compliance with the outstanding conditions of the CofA. MOE did not indicate, in its investigative report to the applicants and the ECO, the date by which the Township was required to ensure it was in compliance with the CofA for the site. MOE reported that the Township had agreed to use municipal resources to cover the waste if the private contractor failed to cover wastes by the dates of the CofA. MOE reported that the Township was complying with the Provincial Officer Order.

Supplemental information requested by the ECO from MOE indicated that as a result of the applicants' letter to the Minister of the Environment in May 2001, a subsequent site inspection was carried out on June 1, 2001. The result of this follow-up inspection was the issuance of an additional Provincial Officer Order. The specific contraventions observed on this occasion included violation of Sections 11(2) and 11(16) of Reg. 347. Access to the site was not, as required, limited to times when the attendant was on duty; and the waste disposal area was not properly enclosed to prevent unauthorized entry and access to the site.

The inspection notes also detailed that a recycling container was overfilled and litter was observed on the ground and on an adjacent property owner's land. The snow fencing was in disrepair and tires were observed in the stock pile of automobile shredder residual, and on the ground beside the active fill area. These tires are required to be segregated as they are encountered.

ECO Findings/Comments

MOE's issuance of the Provincial Officer Order to the former Township of Snowdon (now the Township of Minden Hills), as a means of ensuring compliance with the conditions of the current CofA, was one of the available mechanisms outlined in MOE's Compliance Guideline. In May 2001, MOE reported that the Township was complying with the original Order and that several changes had been made to ensure proper coverage on a regular basis, proper fencing and signage, and submission of outstanding annual and monitoring reports. Correspondence received by ECO from the applicant in May 2001 included photos taken on April 24, 200, documenting what the applicant believed to be further contraventions at the landfill site. These photos were taken well after the completion of MOE's December 2000 site inspection, which formed the basis for the issuance of the Provincial Officer Order. MOE did not indicate in its investigative report whether on-going compliance checks were to be conducted. The applicants at this stage were contemplating further action. The issuance of the second Provincial Officer Order indicates that compliance with the CofA and the previous Order has not been maintained.

MOE's investigative report provided insufficient detail on the ministry's findings related to the specific allegations of contravention(s) of Section 11 of Reg. 347. MOE did not give the applicants or the ECO a timeframe as to when the results of the Technical Support area's review of the annual report containing ground and surface water monitoring sampling data would be expected. Without these results it is not possible to resolve the allegations that contaminants from the landfill site are causing water pollution. MOE failed to inform the applicants what if anything could be possible courses of action should the applicants' allegations in this regard be substantiated. The ministry did not respond directly to the allegation that MOE itself did not provide adequate supervision of the landfill site.

MOE referred to several documents within the body of its response, but failed to indicate to the applicants and the ECO if and how these documents could be obtained. Following some delay, ECO staff were able to acquire some of the key documents, including: the amended CofA; the Provincial Officer Orders; a portion of the Operations and Design Plan; and the Occurrence Report from MOE's site inspection. The ECO did not receive MOE's Technical Support area's review of the ground and surface water sampling data report.

The ECO is concerned with MOE's poor communication of the results of the investigation. Although MOE appears to have completed its investigation in January 2001, MOE staff delayed reporting on its findings until May 2001. While some delay is reasonable, a delay of this length seems excessive. The ECO is also concerned with the fact that the investigation and decision were handled by the same district office and staff who had previous involvement in the applicants' 1997 applications for review and investigation (R97001)and (I97003).

MOE failed to address adequately several key issues within the applicants' allegations. ECO-initiated research showed that MOE approved the use of the automotive shredder residual as a daily cover in the 1998 CofA amendment. The applicants contended that if this was indeed done at the site, then the material would have by this time been assimilated into the waste stream and covered with a final cover. The impact of the non-compliance with the CofA for the site has been that the automotive shredder residual mixture appears to have been used as a final coverage. ECO staff has not been able to determine if the areas where the material has been used as a cover have reached the fill limit.

MOE's actions related to this and previous applications for review and investigation of the Irondale landfill site unfortunately provide further evidence that enforcement and compliance activities of the ministry remain uneven across the province, often resulting in contravenors not being charged with an offence. Moreover, this case suggests that MOE continues to be reluctant to prosecute municipalities for contraventions of environmental laws, preferring to work with them on improving compliance, as demonstrated by the issuance of two Orders within a six-month time period. For further discussion of this emerging issue, see pages 72-83 of the 2000/2001 ECO annual report.

I2000003

Alleged *EPA* violations at the Golden Valley Landfill (MOE) (Related to I2000002,4, R97001, I97003)

Investigation Denied 01/01

I2000004

Alleged *Fisheries Act* violations at the Golden Valley Landfill (MNR) (Related to I2000002,3, R97001, I97003)

Investigation Denied 11/00

Description

The ECO forwarded applications to MOE and MNR requesting, repectively, the investigation of alleged contraventions of the *Environmental Protection Act (EPA)* Section 14(1), and the federal *Fisheries Act* Section 36(3). The alleged contravenors were the operators of the Golden Valley Landfill site, located east of Port Loring in the Township of East Mills, in northeastern Ontario.

The applicants alleged that Brooks Waste Systems (the site operator), the Port Loring Local Services Board, the Ministry of Natural Resources, and the Ministry of the Environment are in contravention of subsection 36(3) of the *Fisheries Act* by indirectly and directly affecting the health of fish, fowl and wildlife and contaminating local water by permitting the storage and dumping of potentially hazardous waste (including petroleum hydrocarbons) at the Golden Valley site, which is permitted to accept only non-hazardous waste. The applicants also alleged contraventions of Section 14(1) of the *EPA* by the discharge of a contaminant that causes or is likely to cause an adverse effect.

Specifically, the applicants alleged the following:

- illegal discharge of contaminants into air, water, and soil;
- illegal storage and dumping of toxic chemicals/waste in the absence of proper storage facilities. In particular the applicants allege the dumping of petroleum hydrocarbons following a documented tanker spill in August 2000, dumping of household oil waste, the former dumping of toxic material from local industries, and the dumping toluene, acetone, and benzene on the part of the Port Loring Local Services Board;
- disruption of fish, fowl and other wildlife (deer). The applicants stated that deformed and discoloured fish have been observed;
- waste not being turned over on a regular basis;
- burning of waste at regular intervals causing adverse health effects on local residents (including allergies, eye and skin irritation)

These concerns and allegations were exacerbated, according to the applicants, by the proximity of the alleged contraventions to the applicants' places of residence and local ecological features. Specifically, the applicants state that the landfill is less than 100 m away from a wetland, 50 m away from the nearest water supply, 500 m away from the nearest lake and resort, and 500 m away from the nearest residents (the applicants). The applicants also expressed dismay with MOE's alleged disinterest in the concerns of local residents regarding the landfill site and, in particular, the sequence of events which followed an August 2000 fuel oil tanker spill. Following the tanker spill accident, which occurred within the service area of the landfill site, the Ministry of the Environment requested that contaminated soil from the accident site be disposed of at the Golden Valley landfill. Ongoing remediation of the accident site continues, with the spill clean-up residuals being disposed of at the landfill.

Aside from the disposal of the spill clean up residuals, the Golden Valley Landfill site, operated by Brooks Waste Systems, provides waste disposal to the Townships of East Mills and Pringle in the Parry Sound district of Northern Ontario. The operator has been certified to accept household waste and waste from service stations and stores (80 per cent domestic and 20 per cent commercial non-hazardous waste.)

Ministries' Response

MNR's response to the ECO stated that an investigation into the alleged *Fisheries Act* contraventions would not be undertaken by the ministry. For the purposes of Section 75 of the *Environmental Bill of Rights*, MNR is no longer responsible for the administration of the Act with respect to pollutants of a chemical nature. Under a new protocol, ratified in February 2000, MNR is the responsible enforcement agency when subsection 36(3) contraventions are alleged and where the pollutant is suspended sediment and not chemical in nature.

Under the protocol, MOE is the agency responsible for investigating alleged contraventions of the *Fisheries Act* where the pollutant is chemical in nature. Following ECO staff inquiries into MOE's responsibilities under the protocol, ministry district staff informed the ECO that MOE undertakes similar assessments as performed under the *EPA* and the *Ontario Water Resources Act (OWRA)*, and pending the findings of which, implements the MOE Compliance Guideline with respect to any necessary further action.

MOE, therefore, had the sole responsibility of reviewing the application(s) for investigation. MOE stated that it decided not to undertake an investigation based primarily on the lack of substantiating evidence presented by the applicants. According to MOE, the applicants had failed to provide information about impacts on groundwater, surface water or air to support their allegations; and the application did not provide any facts connecting the waste disposal site to disruption of fish, fowl and other wildlife. The applicants, according to MOE, also failed to provide information about any adverse effect from the alleged discharge of a contaminant.

In a supplemental response to ECO staff inquiries regarding the applicants' concerns with the disposal of spill residuals from the tanker accident, the ministry's district staff indicated that MOE did not require site testing in connection with the disposal of spill residuals at the Golden Valley landfill. MOE, in its March 15, 2001 letter to the ECO, indicated that:

> *The owner and holder of the CofA is responsible to ensure that waste entering the site is appropriate and acceptable under the provisions of the Certificate. In this particular case, the Port Loring waste disposal site upon the agreement of both the owner and the operator and in consultation with the MOE, did receive solid non-hazardous waste which is common practice dealing with Ontario Waste Class 221 (spill clean-up residuals).*

MOE staff also stated in the March 15, 2001 letter to the ECO that this non-hazardous waste material is commonly used by landfill site operators as cover in landfill site management. It is for this reason, apparently, that MOE does not usually follow up with further sampling of the spill clean-up residual material unless site conditions or the nature of the spill suggest that this is necessary. Thus, further sampling at the site was deemed unnecessary by MOE.

ECO Findings/Comments

MOE's handling of this application was inadequate. MOE should have provided the ECO and the applicants with an informative and meaningful rationale which outlined the following:

- that the site inspection had occurred;
- that the findings were in the process of being finalized; and,
- that the ECO (and the applicants) would be notified of the results upon completion of the inspection report.

The lack of transparency and accountability implied in MOE's ambivalent initial response to the applicants and the ECO is not in keeping with the spirit of the *EBR*.

The ECO has concluded that MOE misinterpreted the *Fisheries Act* by inappropriately applying the *EPA* standard for Section 14, which stipulates that an investigation is warranted if the evidence demonstrates "adverse effects beyond a reasonable doubt." MOE's reasons for denying an investigation are therefore incorrect and inadequate from the perspective of the ECO. This contention is substantiated in case law, wherein the courts have upheld

Fisheries Act prosecutions of dischargers and substantial fines on the basis of discharges of deleterious substances into waters frequented by fish. The Crown is not required to prove the discharges actually harmed the fish.

The ECO is concerned with MOE's interpretation of the *Fisheries Act* in this particular case and the potential for further misinterpretation in similar cases. Therefore, the ECO will be raising this issue with the ministry.

I2000005
Failure to comply with requirements under the *EA Act* (MOE)

On hold pending provision of additional information by the applicant

Description

Ministry Response

ECO Findings/Comments

I2000006
Contamination of a water table by snow dump run-offs (MOE)

Denied 4/01
TO BE REVIEWED IN 2002

Description

Ministry Response

ECO Findings/Comments

I2000007
Alleged EA Act violation and failure to conform to Class EA Process (MOE)

Investigation Denied 4/01

Description
The ECO received and forwarded to the Ministry of the Environment (MOE) an *EBR* application for investigation regarding alleged violations of the *Environmental Assessment Act (EAA)*. The Regional Municipality of Ottawa-Carleton (now the City of Ottawa) allegedly contravened Section 38 of the *EAA* and Regulation 334, Section 5(4)(a)(i) when proceeding with modifications to the Airport Parkway at Hunt Club Road in the City of Ottawa.

When planning the project, the City of Ottawa followed a document approved for use under the *EAA* entitled the Class Environmental Assessment for Municipal Road Projects (Class EA). Failure to follow the requirements of the Class EA is a contravention of the *EAA*.

The applicants alleged that the City of Ottawa improperly assessed project costs and split modifications to the Airport Parkway at Hunt Club Road into several parts ("piecemealing") instead of considering the components as one project. The Class EA requires varying levels of environmental assessment work based on the type and estimated cost of the project. Generally, smaller components of work involve a less rigorous level of environmental review and public consultation. The Class EA prohibits piecemealing and requires holistic planning so that the potential impacts of the entire project can be assessed together.

The City of Ottawa is also alleged to have proceeded with new additional modifications to the Airport Parkway prior to completing properly the monitoring and assessment of existing Parkway modifications. MOE required this monitoring in 1997 when the public raised concerns about *EAA* compliance.

The applicants asserted that the City of Ottawa's alleged failure to comply with *EAA* and Class EA requirements has resulted in the development of a commuter expressway without proper consideration of environmental effects, and has caused much higher traffic flows and a decreased quality of life in downtown Ottawa neighbourhoods.

Submission of the *EBR* investigation request was the third formal attempt by one of the *EBR* applicants, or the community coalition to which he belongs, to draw MOE's attention to the concerns. In July 1997, the Minister of the Environment was requested to "bump-up" (require a more detailed environmental assessment of) the Airport Parkway/Hunt Club Road Interchange Project. In reviewing the request, MOE's Environmental Assessment Branch (now Environmental Assessment and Approvals Branch) found that the City of Ottawa was proceeding with project planning in contravention of Class EA requirements. The City of Ottawa agreed to rectify the situation. The Minister of the Environment subsequently denied the bump-up request, but required the City to monitor the effects of the project prior to proceeding with any other ramps or road work on the Airport Parkway. In a clear admission of concern about compliance issues, the minister's bump-up denial, dated December 1997, stated that any breach of the Class EA by the City would be forwarded to the ministry's Investigation and Enforcement Branch (IEB).

Alleged contraventions of the *EAA* also came to light after the Airport Parkway/Hunt Club Road Interchange Project was completed. In April 1999, the local resident requested that the Minister of the Environment forward this information to IEB, in keeping with the commitment made in the bump-up denial letter. It took five months for MOE's Environmental Assessment and Approvals Branch (EAAB) to acknowledge receipt of this "non-*EBR* investigation request." The EAAB stated: ". . . staff of this Branch have reviewed your letter and forwarded it to the Investigations and Enforcement Branch who will decide on the matter and inform you of their decision." In the fall of 1999, more information was provided to EAAB to support the resident's concerns, and the Branch responded by stating that it forwarded the information to IEB for "their reference and consideration." But, as described below, EAAB provided a decision on the "non-*EBR* investigation request" in 2001 only after the *EBR* application was submitted by the applicants and subsequently denied by the ministry.

Ministry Response

MOE's EAAB informed the applicants that the ministry would not conduct an investigation under the *EBR* because "under section 76 of the *Provincial Offences Act*, charges for an offence under the *EAA* must be laid within six months after the date on which the offence was or is alleged to have been committed." According to EAAB, the matters raised in the *EBR* application for investigation refer to alleged offences which occurred more than six months before the application was received. The *Provincial Offences Act* (*POA*) applies because there is no limitation period set out in the *EAA*.

EAAB's letter stated that, despite the expiry of the limitation period, "staff at the MOE are currently engaged in an ongoing review of Ottawa-Carlton's [sic] compliance with the requirements of the Class EA for this project. The review is expected to determine what steps, if any, should be taken and required of the Municipality if there has been non-compliance." MOE committed to sharing the results of the ministry's review with the applicants.

Two days later, on April 19, 2001, the EAAB wrote to one of the applicants and provided a response to that person's "non-*EBR* investigation request" made in April 1999. Again, the Branch referred to the *POA* when stating that a formal investigation into allegations of *EAA* contraventions was not possible. However, EAAB failed to explain IEB's involvement or explain why it had originally forwarded the non-*EBR* investigation request to IEB in 1999. In view of the evidence reviewed by the ECO, it appears that the six-month limitation period had already expired by that time.

EAAB's April 19, 2001 letter did explain that the Branch had initiated discussions in April 2001 with the City of Ottawa regarding *EAA* compliance for this project. The EAAB also requested more detailed information from the City to assist the Branch in making a final determination on *EAA* compliance in this case. Branch staff committed to communicating their conclusion to the City of Ottawa and the public.

The EAAB did eventually communicate its findings on *EAA* compliance, concluding after further review that the City of Ottawa did not contravene the *EAA* of the Class EA. Unfortunately, the applicants' concerns remain. The ministry did not address the issues of traffic impacts in downtown Ottawa as a result of this road project or the poor communication about the expiry of the six-month limitation period.

ECO Findings/Comment

MOE was technically correct in denying the investigation request. Section 76 of the *POA* states that: "a proceeding shall not be commenced after the expiration of any limitation period prescribed by or under any Act for the offence, or where no limitation period is prescribed, after six months after the date on which the offence was, or is alleged to have been committed."

The purpose of the *EAA* is the protection, conservation and wise management of Ontario's environment. When proponents fail to properly assess and minimize the impacts of a project being planned under the *EAA*, the natural environment and communities can suffer from adverse impacts. In this case, the applicants alleged that improperly planned modifications to the Airport Parkway dramatically increased traffic volumes in certain downtown Ottawa neighbourhoods, resulting in degraded environments in those communities.

The ECO is pleased that the ministry took action in April 2001 to act upon the citizens' concerns about *EAA* compliance. However, these steps, taken only after a lengthy delay and public accountability problems, should have begun sooner. As the public authority responsible for administering the *EAA*, EAAB had an obligation to respond promptly to public complaints, completely document the alleged *EAA* contraventions, and closely monitor the proponent's ongoing activities to foster compliance.

Clearly, EAAB needs to establish a strong program of compliance monitoring to promote environmental protection and meet its Statement of Environmental Values requirements. Therefore, we are encouraged to learn that the Branch is developing a compliance strategy for the EA program. The ECO will follow EAAB's progress in finalizing and implementing this strategy.

The *EAA*'s six-month limitation period (provided for in the *POA*) is inadequate and has serious implications for *EBR* applications for investigation. MOE was not proactive in following up on this project after initial findings of non-compliance, and it took EAAB two years to make a "preliminary" determination of additional non-compliance after a local resident brought information forward.

The *EAA* requires its own limitation period that reasonably reflects the timelines associated with planning, constructing, operating and monitoring the complex projects such as roads, sewage and water treatment facilities, landfill sites, forest management plans and electricity generating facilities that proceed under the legislation. The ECO urges the ministry to act quickly in making appropriate legislative amendments and will monitor the ministry's progress. Increasing the statutory limitation period in the *EAA* to two years or more will make the Act more consistent with other provincial laws such as the *Environmental Protection Act*, *Public Lands Act*, *Crown Forest Sustainability Act* and federal laws such as the *Fisheries Act* and the *Canadian Environmental Protection Act*.

S6. -

EBR LEAVE TO APPEAL APPLICATIONS

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
Registry #IA00E0311 **Applicant:** Garofalo Brothers Construction Ltd. **Ministry:** MOE **Proponent:** 901612 Ontario Ltd. o/a Pat Rogers Towing **Date Application received by ECO:** May 9, 2000 **Instrument:** Certificate of Approval (CofA) (Air), s. 9, *EPA* **Tribunal**: Environmental Review Tribunal (ERT)	The applicant sought leave to appeal the decision to grant a CofA permitting 901612 Ontario Limited o/a Pat Rogers Towing to operate a mobile metal shearing machine and a crusher in conjunction with the recycling of motor vehicles. The grounds for seeking leave to appeal included the following: the noise level created by the operations of the proponent would result in significant environmental harm to the applicant, who owns residentially zoned land immediately adjacent to the westerly boundary of the proponent's property and is proposing to redevelop its lands to the south as a subdivision.	Leave application withdrawn. The applicant was involved in an Ontario Municipal Board hearing which was related to the issuance of a CofA to 901612 Ontario Limited. As part of that settlement in this matter, the applicant agreed to withdraw its application for leave to appeal.	Leave application withdrawn.

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
Registry #IA9E1791 **Applicants:** Mr. and Mrs. Anthony Maddaloni **Ministry:** MOE **Proponent:** Photech Environmental Solutions Inc. **Date Application received by ECO:** June 30, 2000 **Instrument:** CofA (Waste Disposal Site), s. 27, *EPA* **Tribunal**: ERT	The applicants sought leave to appeal the decision to issue a CofA to Photech Environmental Solutions Inc. to operate a waste disposal site for the processing of industrial hazardous and non-hazardous waste. The grounds for seeking leave to appeal included the following: this use of land does not conform to the zoning by-law; the proponent has failed to comply with a previous CofA; and slow emergency response times for residential properties located near the subject site.	The ERT denied the leave to appeal application on the following grounds: it is the municipality's responsibility to ensure that its zoning by-law requirements are met by Photech, not the Director's; there is no evidence to substantiate the possibility that significant environmental harm may result from the issuance of the CofA to Photech; there was no risk associated with the response time of the fire department; and the terms of the CofA indicate a rigorous regime of regulation. **Date of Leave Decision:** August 10, 2000	Leave to appeal denied.

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
Registry # IA00E0427 **Applicants:** Carol S. Dillon and Melvyn E.J. Dillon; The Council of Canadians; Ken McRae; Michael Cassidy and Maureen Cassidy; Eileen Naboznak; Barbara Zents and Ray Zents; Anne German; Kathleen Corrigan **Ministry:** MOE **Proponent:** OMYA (Canada) Inc. **Date Application received by ECO:** September 6, 2000 **Instrument:** Permit to Take Water (PTTW), s. 34, *OWRA* **Tribunal**: ERT	The applicants sought leave to appeal the decision to issue a PTTW increasing the allowable water taking from the Tay River to 4,500 m^3/day by the year 2009. The grounds for seeking leave included the following: the Director failed to protect the quality of the natural environment and foster the efficient use and conservation of resources by granting permission to take more water than the proponent requested; the Director based his decision on insufficient data; there was a lack of independence in the important functions of study, recording, and monitoring; and the Director failed to follow MOE's Statement of Environmental Values.	The ERT granted the leave to appeal application on the grounds that it was not reasonable for the Director to issue a PTTW for the taking of water in the absence of sufficient, pertinent data on the Tay River watershed. The ERT found that the absence of this information created a degree of uncertainty about impacts on the aquatic habitat of the Tay River which raised the possibility of significant harm to the environment. **Date of Leave Decision:** November 6, 2000	Appeal pending. In June 2001, the Environmental Commissioner was summonsed to testify at the ERT hearing by one of the appellants, The Council of Canadians, to give evidence with respect to a brief to the Walkerton Inquiry on Permits to Take Water issued by the ECO in January 2001.

Parties and Date of Leave Application	**Description of Grounds for Leave to Appeal**	**Decision on Leave Application and Decision Date**	**Status/Final Outcome**
Registry #IA9E1370 **Applicants:** Burke Austin, Rita Chimienti, Lynda Lukasik, Zen Matwiyiw, Don McLean **Ministry:** MOE **Proponent:** Horseshoe Carbons Inc. **Date Application received by ECO:** November 6, 2000 **Instrument:** CofA (Air), s. 9, *EPA* **Tribunal**: ERT	The applicants sought leave to appeal the decision to issue a CofA to Horseshoe Carbons Inc. allowing the proponent to discharge emissions from the facility's operation into the air. The grounds for seeking leave to appeal included the following: concerns regarding the terms and conditions set out in the CofA, such as the absence of any requirement for air pollution control systems on stacks discharging into the atmosphere; concerns regarding the manner in which the MOE has addressed citizen concerns; and concerns regarding MOE's handling of the application within the *EBR* process.	The ERT denied the application for leave to appeal because it was not received within the 15-day time period set out under section 40 of the *EBR*. **Date of Leave Decision:** November 7, 2000	Leave to appeal denied.

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
Registry # n/a (although required by s. 22 of the *EBR*, the MOE failed to post this Class III instrument on the Registry) **Applicants:** William M. Oates and Tucker Creek Limited (TLC) **Ministry:** MOE **Proponent:** Imperial Oil **Date Application received by ECO:** November 15, 2000 ?? **Instrument:** CofA, s.53, *OWRA* **Tribunal**: ERT	The applicants sought leave to appeal the decision to issue a CofA to Imperial Oil for a sewage works for treatment and disposal of 150,000 litres per day of wastewater. The applicants own property adjacent to that of Imperial Oil and are concerned about the lack of limits to the volume of specific contaminants being discharged into the ground, and the possibility of effluent ponding on TLC property.	The ERT denied the leave to appeal application on the ground that the application was filed outside its jurisdiction. The instrument which is the subject of this application is a Class III instrument under the *EBR*. Therefore, it is not an instrument for which leave to appeal may be sought under s. 38 of the *EBR*. **Date of Leave Decision:** January 19, 2001	Leave to appeal denied.

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
Registry #IA00E1460 **Applicants:** Colin Heard and Peter Jordan **Ministry:** MOE **Proponent:** Cavanagh Construction Limited **Date Application received by ECO:** January 24, 2001 **Instrument:** PTTW, s. 34, *OWRA* **Tribunal**: ERT	The applicants sought leave to appeal the decision to issue a PTTW to Cavanagh Construction for quarry dewatering, construction, dust control and fire fighting. The grounds for seeking leave included the following: the Director did not have due regard to the potential impacts of the PTTW off-site, in accordance with an ecosystem approach; the Director failed to take full account of inadequacies in the Proponent's hydrogeological study; and the information available to the Director in issuing this PTTW was inaccurate, incomplete and inadequate.	The ERT denied the leave to appeal application on the following grounds: the Director submitted additional evidence demonstrating that a water supply aquifer does not exist above the bottom of the quarry and local aquifers are not affected by the quarry operations because they do not intersect with the quarry; the Director submitted test results indicating the discharge water contained low phosphorous levels, and nitrate levels below the concentration limit established in the Ontario Drinking Water Objectives; and the spring discharge of water to the Richmond Fen will have no discernable impact on its water level. The ERT encouraged follow-up communication between the parties "in the spirit of the EBR." The ERT also noted that MOE caused confusion by changing the Registry decision notice 20 days after its initial posting to clarify inaccuracies, stating that "the glitches in the EBR posting and leave to appeal process are unfortunate, and reflect a lapse in the expected administrative standard." **Date of Leave Decision:** March 1, 2001	Leave to appeal denied.

Parties and Date of Leave Application	Description of Grounds for Leave to Appeal	Decision on Leave Application and Decision Date	Status/Final Outcome
Registry #IA00E1113 **Applicants:** Robert Burton; Joshua Creek Ratepayers Inc. **Ministry:** MOE **Proponent:** Sithe Energies Canadian Development Ltd. **Date Application received by ECO:** February 8, 2001 **Instrument:** CofA (Air), s. 9, *EPA* **Tribunal**: ERT	The applicants sought leave to appeal the decision to issue a CofA to the proponent for an 800 MW combined cycle electrical power generating station. The grounds for seeking leave included: the potential for unnecessary deaths caused by a 1% increase in air pollution; there was no demonstration of need for the plant; and the proponent is a U.S. company operating similar projects in the U.S., where it is required to restrict pollution emissions on similar generating stations to levels of at least half of those permitted in the approval.	The ERT ruled that it had no jurisdiction in the application by Joshua Creek Ratepayers Inc. because it was filed beyond the statutory time frame. The ERT determined that Mr. Burton had an interest in the decision despite the fact that he had not submitted comments on the proposed instrument because he was a resident of Oakville, Ontario and had attended community meetings regarding the proponent's approval. The ERT denied the leave to appeal application on the grounds that: Mr. Burton failed to identify any current Ontario legislation which required the proponent to demonstrate the need for its facility; the emissions expected from the facility would be well below the limits allowed under current Ontario legislation and regulations; and the Director's actions were governed by the laws and regulations of Ontario. **Date of Leave Decision:** March 9, 2001	Leave to appeal denied.

S7. -

EBR COURT ACTIONS

EBR COURT ACTIONS

April 1, 2000 to March 31, 2001

Parties and Date of Claim	**Description of Grounds for Claim**	**Status/Final Outcome**
Registry #CQ7E0001.P **Plaintiff:** John Hollick **Defendant:** Corporation of the Municipality of Metropolitan Toronto (now City of Toronto) **Date Statement of Claim Issued:** February 3, 1997 **Type of Action:** Public nuisance action, s. 103, *EBR* **Court Location:** Superior Court of Justice, Whitby	The plaintiff has launched a class action against Toronto over pollution caused by the Keele Valley Dump. The plaintiff alleges that residents of Maple and Richmond Hill have been subjected to methane and other noxious gases, debris and noise from the dump for many years. The plaintiff claims $500 million in compensatory damages, $100 million in punitive damages, and an injunction preventing Toronto from continuing to pollute the local environment.	Action dismissed; appeal pending. The court action was certified as a class proceeding in the Ontario Court of Justice (General Division) on March 30, 1998. The defendant successfully appealed this decision to the Divisional Court, which ruled on December 17, 1998. The plaintiff then appealed to the Ontario Court of Appeal. The plaintiff's appeal was dismissed in a decision released on December 16, 1999, in which the Court of Appeal held that there was no common issue to justify the certification as a class action because the individuals' "lives have been affected, or not affected, in a different manner and degree." In September 2000, the plaintiff received leave to appeal for these decisions to the Supreme Court of Canada. The ECO intervened in this appeal before the Supreme Court of Canada as a friend of the court. The appeal was heard by the court on June 13, 2001.

Registry #CQ7E0001.P **Plaintiff:** Shirley Wallington Grace **Defendants:** Corporation of the Town of Fort Erie and the Regional Municipality of Niagara **Date Statement of Claim Issued:** August 22, 1997 **Type of Action:** Public nuisance action, s. 103, *EBR* **Court Location:** Superior Court of Justice, Welland	The plaintiff has begun a class action proceeding against her local municipality, which operates a municipal water system, and her regional municipality, which owns and operates the water treatment plant that supplies Fort Erie's water system. The plaintiff alleges that the water supplied to residents is frequently contaminated by iron rust and is also contaminated by microorganisms present at levels that exceed the Ontario Drinking Water Objectives and the Guidelines for Canadian Drinking Water Quality. The plaintiff claims that the contaminated water is a nuisance, and makes a number of other claims against the defendants. The plaintiff claims $30 million in damages and an injunction preventing the defendants from adding corrosion inhibitors to the water they supply.	Action pending.

Registry #CQ8E0001 **Plaintiffs:** Karl Braeker, Victoria Braeker, Paul Braeker and Percy James **Defendants:** Her Majesty the Queen in Right of Ontario, 999720 Ontario Limited, and Max Heinz Karge **Date Statement of Claim Issued:** July 27, 1998 **Type of Action:** Harm to a public resource action, s. 84, *EBR* **Court Location:** Superior Court of Justice, Grey County (West Region)	The plaintiffs live next to property owned by the defendant Karge, located in Egremont Township in the County of Grey. The plaintiffs claim that the property is the site of an illegal waste dump and that substances emanating from the site are contaminating or will imminently contaminate the subsoil, groundwater, and surface water in the surrounding vicinity, including the plaintiffs' well water. They claim that the defendants are responsible for this contamination. The damages sought by the plaintiffs include: an injunction preventing the use of the property for any use other than rural uses; an environmental restoration plan to prevent, diminish or eliminate harm to a public resource caused by contaminants emanating from the waste dump and to restore the site to its prior condition; and damages in excess of one million dollars.	Action pending. Notice was approved by the court and placed on the Registry on December 23, 1999.

Registry #CQ9E0001 **Plaintiffs:** John Brennan and Lynn Brennan **Defendant:** Board of Health for the Simcoe County District Health Unit **Date Statement of Claim Issued:** June 16, 1999 **Type of Action:** Public nuisance action, s. 103, *EBR* **Court Location:** Superior Court of Justice, Barrie	The plaintiffs claim that the defendant breached its duty of care to them and was negligent by issuing certificates of approval for sewage systems at two chalets at the Snow Valley ski resort when the sewage system designs were substandard and incapable of handling the intended loads on the systems. The plaintiffs maintain that this breach has caused a nuisance and is polluting the plaintiffs' property, resulting in unsafe water, environmental damage and reduced property values. The plaintiffs allege that the defendant should not have issued the Certificate of Approval and rely on the *Ontario Water Resources Act*, the *Environmental Protection Act*, the *Health Promotion and Protection Act* and their regulations, but do not allege that the defendant has contravened a specific environmental law. The plaintiffs claim full compensation for their losses.	Action pending. The plaintiffs also made a claim under s. 84 of the *EBR* (harm to a public resource). This has not yet been posted on the Registry, pending court approval of notice of the action under s. 87 of the *EBR*.

Registry #CQ01E0002 **Plaintiffs:** Suzanne Lewis and Kacy Weeke **Defendants:** Shell Canada Limited and Shell Canada Products Limited **Date Statement of Claim Issued:** 2000/04/13 **Type of Action:** Public nuisance action, s. 103, *EBR* **Court Location:** Superior Court of Justice, London	The plaintiffs believe that the defendants released quantities of hydrocarbons, hydrogen sulphide and other toxic gases into the atmosphere on March 16, 2000, from their Corunna Plant. The gases spread throughout the County of Lambton, affecting industrial and residential areas. The plaintiffs claim that the defendants are liable under the law of nuisance, which includes public nuisance. The plaintiffs also claim that the defendants are liable in negligence for, among other things, failing to: have adequate equipment, procedures, or safety procedures in place to prevent the release of the gases or to determine the concentration of the gases; warn the plaintiffs and other class members in a timely fashion of the release of the gases; and warn the authorities of the release of the gases in a timely fashion. The plaintiffs claim punitive, aggravated and exemplary damages of $250,000, as well as special damages to be determined.	This action was certified to proceed as a class action in January 2001. The class action was subsequently settled in January 2001. The claim deadline for individuals wishing to identify themselves as members of the affected class expired on March 13, 2001.

Registry #CQ01E0001 **Plaintiff:** Wilfred Robert Pearson **Defendants:** Inco Limited, The Corporation of the City of Port Colborne, The Regional Municipality of Niagara, The District School Board of Niagara, and The Niagara Catholic District School Board **Date Statement of Claim Issued:** 2001/03/26 **Type of Action:** Public nuisance action, s. 103, *EBR* **Court Location:** Superior Court of Justice, Welland	The plaintiff maintains that the defendant has and does emit and discharge hazardous contaminants into the natural environment, including the air, water and soil of Port Colborne. The contaminants include oxidic, sulphidic and soluble inorganic nickel compounds, copper, cobalt, chlorine, arsenic and lead. The plaintiff claims that the defendant is liable for the activities at the refinery and the ongoing release of contaminants into the environment and onto the lands of the class members, based on the following causes of action: negligence; nuisance; public nuisance under s. 103 of the *EBR*; trespass; discharging contaminants with adverse effects under s. 14 of the *EPA*; and the doctrine of strict liability in *Rylands and Fletcher*. The plaintiff claims punitive and exemplary damages in the amount of $150 million, and compensatory damages in the amount of $600 million.	Action pending.

S8. -

UNDECIDED PROPOSALS

S8 Undecided Proposals

As decided by Section 58(c) of the *EBR*, the following are the proposals posted on the Environmental Registry between April 1, 2000 and March 31, 2001 which were not decided by May 22, 2001.

A) Policies, Acts and Regulations

1. EBR Registry Number: "PB01E1005" Type of Posting: "Policy" Status: "Proposal" Abstract: Neys Provincial Park and Rainbow Falls Provincial Park Management Plan. Invitation to Participate and Inspect Approved Terms of Reference. -03/28/2001

2. EBR Registry Number: "PB9E3012" Type of Posting: "Policy" Status: "Proposal" Abstract: Amendment to Bracebridge District Land Use Guidelines (DLUG) to permit the sale of existing Crown land cottage lots on four lakes in the Municipality of the Townships of Sherborne, McClintock, Livingstone, Lawrence and Nightingale, County of Haliburton. -03/28/2001

3. EBR Registry Number: "PB9E3011" Type of Posting: "Policy" Status: "Proposal" Abstract: Amendment to Parry Sound District Land Use Guidelines (DLUG) to permit the sale of existing Crown land cottage lots on Kawigamog Lake, Blair Township, Territorial District of Parry Sound. -03/28/2001

4. EBR Registry Number: "PB8E3025" Type of Posting: "Policy" Status: "Proposal" Abstract: Amendment to Bracebridge District Land Use Guidelines (DLUG): permitted uses of Crown land in the Kimball Lake area. -03/28/2001

5. EBR Registry Number: "PB01E6002" Type of Posting: "Policy" Status: "Proposal" Abstract: Prescribed Burn Plans for 2000. -03/26/2001

6. EBR Registry Number: "RA01E0008" Type of Posting: "Regulation" Status: "Proposal" Abstract: Lakeview Thermal Generating Station Emission Limits. -03/26/2001

7. EBR Registry Number: "RA01E0009" Type of Posting: "Regulation" Status: "Proposal" Abstract: Reduced emission Limits for the Electricity Sector and an Emissions Reduction Trading System for Ontario. -03/26/2001

8. EBR Registry Number: "PA00E0011" Type of Posting: "Policy" Status: "Proposal" Abstract: Rationale for the Development of Ontario Air Quality Standards for n-Hexane. -03/20/2001

9. EBR Registry Number: "RA01E0001" Type of Posting: "Regulation" Status: "Proposal" Abstract: Ministry of Natural Resources: Construction of Visitor Centres for the following provincial parks: Killbear, French River, Killarney and Lake Superior; Declaration Order request under the Environmental Assessment Act. -03/15/2001

10. EBR Registry Number: "RT01E0001" Type of Posting: "Regulation" Status: "Proposal"
Abstract: Liquid Fuels Handling Code. -03/07/2001

11. EBR Registry Number: "PT01E0001" Type of Posting: "Policy" Status: "Proposal"
Abstract: Environmental Management Protocol for Operating Fuel Handling Facilities in Ontario (GA1/99) -03/07/2001

12. EBR Registry Number: "RL01E0001" Type of Posting: "Regulation" Status: "Proposal"
Abstract: Proposed Liquid Fuel Handling Regulation (formerly the Gasoline Handling Act and regulation) -03/07/2001

13. EBR Registry Number: "RB01E6001" Type of Posting: "Regulation" Status: "Proposal"
Abstract: Amendment to O. Reg. 670/98 (Open Seasons - Wildlife) made under the Fish and Wildlife Conservation Act: extension of open seasons for trapping fisher, marten, mink, opossum and raccoon. -02/26/2001

14. EBR Registry Number: "PB01E2001" Type of Posting: "Policy" Status: "Proposal"
Abstract: Mashkinonje Provincial Park Management Plan. -02/20/2001

15. EBR Registry Number: "PB01E1003" Type of Posting: "Policy" Status: "Proposal"
Abstract: Ecological Land Use and Resource Management Strategy for the Lake Nipigon Basin Signature Site - Invitation to Participate. -02/14/2001

16. EBR Registry Number: "PB01E3001" Type of Posting: "Policy" Status: "Proposal"
Abstract: St. Williams Crown Forest —An Alternative Delivery Model - Options for Delivery and Management -02/14/2001

17. EBR Registry Number: "PA7E0001" Type of Posting: "Policy" Status: "Proposal"
Abstract: A Guide To Preparing Terms of Reference For Environmental Assessments. -02/13/2001

18. EBR Registry Number: "AA01E0001" Type of Posting: "Act" Status: "Proposal"
Abstract: Legislative amendments are proposed to provide clarity and consistency, and improve the ministry's ability to deliver its services in a timely fashion. -02/12/2001

19. EBR Registry Number: "PA01E0001" Type of Posting: "Policy" Status: "Proposal"
Abstract: Guideline on Consultation in the Environmental Assessment Process. -02/12/2001

20. EBR Registry Number: "PA7E0002" Type of Posting: "Policy" Status: "Proposal"
Abstract: The Use of Mediation in Ontario's Environmental Assessment Process. -02/12/2001

21. EBR Registry Number: "PA01E0004" Type of Posting: "Policy" Status: "Proposal"
Abstract: Fill Quality Guidelines For Lakefilling in Ontario. -01/10/2001

22. EBR Registry Number: "PB01E3006" Type of Posting: "Policy" Status: "Proposal" Abstract: Fish Point and Lighthouse Point Provincial Nature Reserves Management Plan – Invitation to Participate. -01/04/2001

23. EBR Registry Number: "RB01E6004" Type of Posting: "Regulation" Status: "Proposal" Abstract: Release of Reservations in Letters Patent: A Regulation made under the Public Lands Act:, subsection 68.1. -01/02/2001

24. EBR Registry Number: "RB00E6006" Type of Posting: "Regulation" Status: "Proposal" Abstract: Amendment to Regulation 328, R.R.O. 1990, under the Endangered Species Act: listing of the few-flowered club-rush, horsetail spike-rush and slender bush clover as endangered species. -12/21/2000

25. EBR Registry Number: "RB00E7001" Type of Posting: "Regulation" Status: "Proposal" Abstract: Forest Information Manual (FIM): the addition of a new regulation under the Crown Forest Sustainability Act (CFSA). -12/15/2000

26. EBR Registry Number: "RB00E6005" Type of Posting: "Regulation" Status: "Proposal" Abstract: Establishment of an open season for hunting eastern wild turkey in 2001 in Wildlife Management Units (WMUs) 59A, 60A, 61, 63A , 63 B and 65 excluding the United Counties of Prescott- Russell: amendment to O. Reg. 670/98 (Open Seasons - Wildlife) made under the Fish and Wildlife Conservation Act. -12/01/2000

27. EBR Registry Number: "RB00E2004" Type of Posting: "Regulation" Status: "Proposal" Abstract: Establishment of an open season for hunting eastern wild turkey in 2001 in Wildlife Management Units (WMUs) 59A, 60A, 61, 63A, 63B and 65 excluding the United Counties of Prescott-Russell: amendment to O.Reg 670/98 (Open Seasons - Wildlife) made under the Fish and Wildlife Conservation Act. -12/01/2000

28. EBR Registry Number: "RA00E0027" Type of Posting: "Regulation" Status: "Proposal" Abstract: Housekeeping amendment to Ontario Regulation 73/94 under EBR. -11/10/2000

29. EBR Registry Number: "RD00E1013" Type of Posting: "Regulation" Status: "Proposal" Abstract: Code of Ethics of Professional Geoscientists. -11/02/2000

30. EBR Registry Number: "RD00E1012" Type of Posting: "Regulation" Status: "Proposal" Abstract: Registration under the Professional Geoscientists Act, 2000. -11/02/2000

31. EBR Registry Number: "AA00E0001" Type of Posting: "Act" Status: "Proposal" Abstract: Legislative amendments to consolidate the Environmental Assessment Board and the Environmental Appeal Board, and administrative amendments to the Environmental Assessment Act. -10/23/2000

32. EBR Registry Number: "PA00E0025" Type of Posting: "Policy" Status: "Proposal"

Abstract: Canada-Wide Standards for Petroleum Hydrocarbons in Soil. -10/12/2000

33. EBR Registry Number: "PA00E0024" Type of Posting: "Policy" Status: "Proposal"
Abstract: Canada-Wide Standards for Waste Dental Amalgam and Fluorescent Lamps. -10/12/2000

34. EBR Registry Number: "PA00E0023" Type of Posting: "Policy" Status: "Proposal"
Abstract: Canada-Wide Standards for Dioxins and Furans. -10/12/2000

35. EBR Registry Number: "AA00E0002" Type of Posting: "Act" Status: "Proposal"
Abstract: Toughest Environmental Penalties Act, 2000. -10/12/2000

36. EBR Registry Number: "PB00E3003" Type of Posting: "Policy" Status: "Proposal"
Abstract: Protected area designation, boundary refinement and land-use guidance for the Kawartha Highlands Signature Site: Invitation to Participate. -10/03/2000

37. EBR Registry Number: "PB00E7004" Type of Posting: "Policy" Status: "Proposal"
Abstract: Forest Management Guidelines for Retaining Forest Ecosystem Structure and Function: The Fire Simulation Guidelines. -09/29/2000

38. EBR Registry Number: "PA00E0029" Type of Posting: "Policy" Status: "Proposal"
Abstract: Proposal to adopt the Canadian Drinking Water Guideline for Bromate as an Ontario Drinking Water Standard. -09/20/2000

39. EBR Registry Number: "PB9E1018" Type of Posting: "Policy" Status: "Proposal"
Abstract: Shoal Lake Watershed Plan - Review of revised goals and objectives, and proposed management strategies. -09/08/2000

40. EBR Registry Number: "RO00E0002" Type of Posting: "Regulation" Status: "Proposal"
Abstract: The proposed Ontario Regulation amends Regulation 82/95 (as amended by Ontario Regulation 326/98 and Ontario Regulation 364/00, made under the Energy Efficiency Act) by setting minimum efficiency levels for two products and updating the referenced national standard for seven products. -09/08/2000

41. EBR Registry Number: "PA00E0027" Type of Posting: "Policy" Status: "Proposal"
Abstract: Protecting drinking water for small waterworks in Ontario. -08/25/2000

42. EBR Registry Number: "RA00E0015" Type of Posting: "Regulation" Status: "Proposal"
Abstract: Waterworks and Sewage Works. -08/14/2000

43. EBR Registry Number: "PB00E6007" Type of Posting: "Policy" Status: "Proposal"
Abstract: "Community conservation lands" under the Conservation Land Tax Incentive Program (CLTIP). -07/18/2000

44. EBR Registry Number: "PB00E6012" Type of Posting: "Policy" Status: "Proposal"
Abstract: Fish Community Objectives for the St. Lawrence River — Invitation to Participate and Review of Background Information. -07/18/2000

45. EBR Registry Number: "TC00E0001" Type of Posting: "Policy" Status: "Proposal"
Abstract: Intensive Agricultural Operations in Rural Ontario. -07/13/2000

46. EBR Registry Number: "PA00E0021" Type of Posting: "Policy" Status: "Proposal"
Abstract: Canadian Chemical Producers' Association (CCPA) and Government of Canada Memorandum of Understanding and Volatile Organic Compounds Annex under CCPA Responsible Care. -07/06/2000

47. EBR Registry Number: "PB00E0001" Type of Posting: "Policy" Status: "Proposal"
Abstract: A Silvicultural Guide to Managing Southern Ontario Forests. -07/06/2000

48. EBR Registry Number: "AB00E4001" Type of Posting: "Act" Status: "Proposal"
Abstract: Amendments to nine statutes administered in whole or in part by the Ministry of Natural Resources. -05/31/2000

49. EBR Registry Number: "PA00E0022" Type of Posting: "Policy" Status: "Proposal"
Abstract: Proposed Environmental Management Agreement between Environment Canada, Ministry of the Environment and Algoma Steel Inc. -05/26/2000

50. EBR Registry Number: "RA00E0012" Type of Posting: "Regulation" Status: "Proposal"
Abstract: Toronto Renewable Energy Co-operative (TREC) in partnership with Toronto Hydro Energy Services Inc. ("Toronto Hydro") Toronto Lakefront Wind Turbine Project. -05/23/2000

51. EBR Registry Number: "PB00E7001" Type of Posting: "Policy" Status: "Proposal"
Abstract: Fire Management Strategy for Ontario - Invitation to Participate and Development of Options. -05/12/2000

52. EBR Registry Number: "PB00E1006" Type of Posting: "Policy" Status: "Proposal"
Abstract: Aulneau Peninsula Enhanced Wildlife Management Plan. -05/09/2000

53. EBR Registry Number: "PB8E3008" Type of Posting: "Policy" Status: "Proposal"
Abstract: Credit River Fisheries Management Plan - Review of draft plan. -05/05/2000

B) Instruments

1. EBR Registry Number: "IA01E0430" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Inco Limited Order for remedial work. -03/30/2001

2. EBR Registry Number: "IT01E0010" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Shell Canada Products Limited Application for variances from the Gasoline Handling Act. -03/30/2001

3. EBR Registry Number: "IF01E0030" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Township of South Frontenac Approval of an Official Plan Amendment. -03/30/2001

4. EBR Registry Number: "IA01E0445" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Millbrook Cabinetry Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/30/2001

5. EBR Registry Number: "IA01E0444" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ontario Chromium Plating Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/30/2001

6. EBR Registry Number: "IA01E0443" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Beechwood Golf & Country Club Permit to take water. -03/30/2001

7. EBR Registry Number: "IA01E0442" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Canada Malting Co. Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -03/30/2001

8. EBR Registry Number: "IA01E0441" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Sauble golf Ltd. Permit to take water. -03/30/2001

9. EBR Registry Number: "IA01E0446" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Collins & Aikman Products Co. Approval for discharge into the natural environment other than water (i.e. Air). -03/30/2001

10. EBR Registry Number: "IA01E0440" Type of Posting: "Instrument" Status: "Proposal"
Abstract: John LeGros Permit to take water. -03/30/2001

11. EBR Registry Number: "IA01E0439" Type of Posting: "Instrument" Status: "Proposal"
Abstract: BA Banknote Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/30/2001

12. EBR Registry Number: "IA01E0437" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Canadian Waste Services Inc. Approval for a waste disposal site. -03/29/2001

13. EBR Registry Number: "IA01E0438" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Albis Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/29/2001

14. EBR Registry Number: "IA01E0434" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Textron Canada Limited Approval for discharge into the natural environment
other than water (i.e. Air). -03/29/2001

15. EBR Registry Number: "IA01E0433" Type of Posting: "Instrument" Status: "Proposal"
Abstract: F & P Manufacturing Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -03/29/2001

16. EBR Registry Number: "IA01E0432" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1454065 Ontario Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -03/29/2001

17. EBR Registry Number: "IA01E0431" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ducks Unlimited Permit to take water. -03/29/2001

18. EBR Registry Number: "IA01E0429" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Nova Chemicals Corporation Approval for discharge into the natural
environment other than water (i.e. Air). -03/28/2001

19. EBR Registry Number: "IA01E0427" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Exide Canada Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -03/28/2001

20. EBR Registry Number: "IA01E0428" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Metrophotonics Inc Approval for discharge into the natural environment
other than water (i.e. Air). -03/28/2001

21. EBR Registry Number: "IA01E0426" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 349977 Ontario Inc. Approval for a waste disposal site. -03/28/2001

22. EBR Registry Number: "IF01E0029" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Township of Gillies Approval of an Official Plan. -03/28/2001

23. EBR Registry Number: "IF01E0028" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Town of Mississippi Mills Approval of an Official Plan Amendment. -03/28/2001

24. EBR Registry Number: "IA01E0425" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Continental Group of Canada Inc. and NMC Canada Inc. Approval
for discharge into the natural environment other than water (i.e. Air). -03/28/2001

25. EBR Registry Number: "IA01E0424" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Kinross Gold Corporation Approval for discharge into the natural
environment other than water (i.e. Air). -03/28/2001

26. EBR Registry Number: "IA01E0423" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1095269 Ontario Limited Approval for a waste disposal site. -03/28/2001

27. EBR Registry Number: "IA01E0422" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 469706 Ontario Limited Approval for discharge into the natural environment
other than water (i.e. Air). -03/28/2001

28. EBR Registry Number: "IA01E0421" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Swagelok Canada Ltd. Approval for discharge into the natural environment
other than water (i.e. Air). -03/27/2001

29. EBR Registry Number: "IF01E0025" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Township of O'Connor Approval of an Official Plan. -03/27/2001

30. EBR Registry Number: "IA01E0420" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Dupont Canada Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -03/27/2001

31. EBR Registry Number: "IA01E0419" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Cruickshank Construction Kingston Permit to take water. -03/27/2001

32. EBR Registry Number: "IA01E0418" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Wescast Industries Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -03/27/2001

33. EBR Registry Number: "IA01E0416" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Briggs Auto Service Approval for discharge into the natural environment
other than water (i.e. Air). -03/27/2001

34. EBR Registry Number: "IA01E0417" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Power Solutions Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -03/27/2001

35. EBR Registry Number: "IA01E0415" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Quality Hardwoods Ltd. Approval for discharge into the natural environment
other than water (i.e. Air). -03/27/2001

36. EBR Registry Number: "IA01E0414" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Procter & Gamble Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -03/27/2001

37. EBR Registry Number: "IA01E0412" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Osprey Links Ltd. Permit to take water. -03/26/2001

38. EBR Registry Number: "IA01E0411" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Built Right Utility Bodies Ltd. Approval for discharge into the natural
environment other than water (i.e. Air). -03/26/2001

39. EBR Registry Number: "IA01E0410" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Tape Specialties Limited Approval for discharge into the natural environment

other than water (i.e. Air). -03/26/2001

40. EBR Registry Number: "IA01E0409" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Evans Ford Lincoln Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -03/26/2001

41. EBR Registry Number: "IA01E0413" Type of Posting: "Instrument" Status: "Proposal"
Abstract: General Chemical Canada Ltd Permit to take water. -03/26/2001

42. EBR Registry Number: "IA01E0408" Type of Posting: "Instrument" Status: "Proposal"
Abstract: NHB Industries Limited Approval for discharge into the natural environment
other than water (i.e. Air). -03/26/2001

43. EBR Registry Number: "IF01E0024" Type of Posting: "Instrument" Status: "Proposal"
Abstract: City of Kenora Approval of an Official Plan Amendment. -03/26/2001

44. EBR Registry Number: "IF01E0023" Type of Posting: "Instrument" Status: "Proposal"
Abstract: City of Kenora Approval of an Official Plan Amendment. -03/26/2001

45. EBR Registry Number: "IA01E0405" Type of Posting: "Instrument" Status: "Proposal"
Abstract: SofSurfaces Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -03/26/2001

46. EBR Registry Number: "IA01E0404" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Francis-Green International Inc. Approval for sewage works. -03/26/2001

47. EBR Registry Number: "IA01E0402" Type of Posting: "Instrument" Status: "Proposal"
Abstract: John Broeders Machine Co. Ltd. Approval for discharge into the natural
environment other than water (i.e. Air). -03/26/2001

48. EBR Registry Number: "IA01E0403" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Spectrum Powder Coaters Ltd. Approval for discharge into the natural
environment other than water (i.e. Air). -03/26/2001

49. EBR Registry Number: "IF01E0022" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Kurt and Melissa Bianco A proposal for provisional consent
(no Official Plan in Place). -03/23/2001

50. EBR Registry Number: "IF01E0021" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Joan and Bruce Whyte A proposal for provisional consent
(no Official Plan in Place). -03/23/2001

51. EBR Registry Number: "IA01E0400" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Forest Golf & Country Hotel Permit to take water. -03/23/2001

52. EBR Registry Number: "IA01E0401" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Tymatts Developments Inc. Permit to take water. -03/23/2001

53. EBR Registry Number: "IA01E0398" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Shawneeki Golf Course Permit to take water. -03/22/2001

54. EBR Registry Number: "IA01E0397" Type of Posting: "Instrument" Status: "Proposal"
Abstract: James Dick Construction Ltd. Permit to take water. -03/22/2001

55. EBR Registry Number: "IA01E0396" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Forgehill Equities Inc. Permit to take water. -03/22/2001

56. EBR Registry Number: "IA01E0395" Type of Posting: "Instrument" Status: "Proposal"
Abstract: East End Plating Co. Ltd., Approval for discharge into the natural environment other than water (i.e. Air). -03/21/2001

57. EBR Registry Number: "IA01E0394" Type of Posting: "Instrument" Status: "Proposal"
Abstract: MacDermid Chemicals, Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/21/2001

58. EBR Registry Number: "IA01E0393" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Raymond Alary Permit to take water. -03/21/2001

59. EBR Registry Number: "IA01E0390" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Donohue Forest Products Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/20/2001

60. EBR Registry Number: "IA01E0389" Type of Posting: "Instrument" Status: "Proposal"
Abstract: J.R. Short Canadian Mills Limited Approval for discharge into the natural environment other than water (i.e. Air). -03/20/2001

61. EBR Registry Number: "IA01E0388" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Lakewood Industries Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -03/20/2001

62. EBR Registry Number: "IA01E0387" Type of Posting: "Instrument" Status: "Proposal"
Abstract: LDM Technologies Company Approval for discharge into the natural environment other than water (i.e. Air). -03/20/2001

63. EBR Registry Number: "IA01E0380" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Bodycote Thermal Processing - Newmarket Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/19/2001

64. EBR Registry Number: "IA01E0385" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ainsworth Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/19/2001

65. EBR Registry Number: "IA01E0384" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Royal Polymers Limited Approval for sewage works. -03/19/2001

66. EBR Registry Number: "IA01E0383" Type of Posting: "Instrument" Status: "Proposal" Abstract: Northern Sawmills Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/19/2001

67. EBR Registry Number: "IA01E0382" Type of Posting: "Instrument" Status: "Proposal" Abstract: Standard Products (Canada) Limited Approval for discharge into the natural environment other than water (i.e. Air). -03/19/2001

68. EBR Registry Number: "IA01E0378" Type of Posting: "Instrument" Status: "Proposal" Abstract: 911904 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air). -03/19/2001

69. EBR Registry Number: "IA01E0353" Type of Posting: "Instrument" Status: "Proposal" Abstract: Cyanide Destruct Systems Inc. Approval for a waste disposal site. -03/19/2001

70. EBR Registry Number: "IA01E0377" Type of Posting: "Instrument" Status: "Proposal" Abstract: Fielding Chemicals Limited Approval for a waste disposal site. -03/19/2001

71. EBR Registry Number: "IA01E0376" Type of Posting: "Instrument" Status: "Proposal" Abstract: Weyerhaeuser Company Limited Approval for discharge into the natural environment other than water (i.e. Air). -03/19/2001

72. EBR Registry Number: "IA01E0373" Type of Posting: "Instrument" Status: "Proposal" Abstract: DaimlerChrysler Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/16/2001

73. EBR Registry Number: "IA01E0372" Type of Posting: "Instrument" Status: "Proposal" Abstract: JDS Uniphase Corporation Approval for discharge into the natural environment other than water (i.e. Air). -03/16/2001

74. EBR Registry Number: "IA01E0371" Type of Posting: "Instrument" Status: "Proposal" Abstract: Amhil Enterprises Approval for discharge into the natural environment other than water (i.e. Air). -03/16/2001

75. EBR Registry Number: "IA01E0370" Type of Posting: "Instrument" Status: "Proposal" Abstract: Raleigh Meadows Golf Club Permit to take water. -03/16/2001

76. EBR Registry Number: "IA01E0368" Type of Posting: "Instrument" Status: "Proposal" Abstract: Modern Mosaic Limited Approval for discharge into the natural environment other than water (i.e. Air). -03/16/2001

77. EBR Registry Number: "IA01E0367" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ranger Metal Products Limited Approval for discharge into the natural environment other than water (i.e. Air). -03/16/2001

78. EBR Registry Number: "IA01E0365" Type of Posting: "Instrument" Status: "Proposal"

Abstract: Cliff Central Heating and Cooling Plant Permit to take water. -03/15/2001

79. EBR Registry Number: "IA01E0364" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Bayview & Steeles Auto Collision Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -03/15/2001

80. EBR Registry Number: "IA01E0363" Type of Posting: "Instrument" Status: "Proposal"
Abstract: MetoKote Corporation Approval for discharge into the natural environment other than water (i.e. Air). -03/15/2001

81 EBR Registry Number: "IA01E0362" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Global Egg Corporation Approval for discharge into the natural environment other than water (i.e. Air) -03/15/2001

82. EBR Registry Number: "IA01E0361" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Blue Circle Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/15/2001

83. EBR Registry Number: "IA01E0360" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Dayton Auto Body Limited Approval for discharge into the natural environment other than water (i.e. Air). -03/15/2001

84. EBR Registry Number: "IA01E0358" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Cherry Hill Club Permit to take water. -03/15/2001

85. EBR Registry Number: "IA01E0359" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Hill Lake Farms Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -03/15/2001

86. EBR Registry Number: "IA01E0357" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Fielding Chemicals Technologies Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/15/2001

87. EBR Registry Number: "IA01E0356" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Carl. W. Snow Approval for sewage works. -03/14/2001

88. EBR Registry Number: "IA01E0352" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Grand Niagara Resort Corporation Permit to take water. -03/14/2001

89. EBR Registry Number: "IA01E0351" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Aspen Laminating Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/14/2001

90. EBR Registry Number: "IA01E0339" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Dana Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/14/2001

91. EBR Registry Number: "IA01E0350" Type of Posting: "Instrument" Status: "Proposal" Abstract: Tembec Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/14/2001

92. EBR Registry Number: "IA01E0347" Type of Posting: "Instrument" Status: "Proposal" Abstract: Fielding Chemicals Limited Approval for a waste disposal site. -03/13/2001

93. EBR Registry Number: "IA01E0346" Type of Posting: "Instrument" Status: "Proposal" Abstract: Woodrich Furniture Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/13/2001

94. EBR Registry Number: "IA01E0345" Type of Posting: "Instrument" Status: "Proposal" Abstract: Honda Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/13/2001

95. EBR Registry Number: "IA01E0344" Type of Posting: "Instrument" Status: "Proposal" Abstract: Randolf and Karen Toepp Permit to take water. -03/13/2001

96. EBR Registry Number: "IA01E0343" Type of Posting: "Instrument" Status: "Proposal" Abstract: Randolf and Karen Toepp Permit to take water. -03/13/2001

97. EBR Registry Number: "IA01E0341" Type of Posting: "Instrument" Status: "Proposal" Abstract: Falconbridge Limited. Kidd Metallurgical Division Approval for discharge into the natural environment other than water (i.e. Air). -03/13/2001

98. EBR Registry Number: "IA01E0340" Type of Posting: "Instrument" Status: "Proposal" Abstract: Northern Pride Products Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/13/2001

99. EBR Registry Number: "IA01E0338" Type of Posting: "Instrument" Status: "Proposal" Abstract: 3038785 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air). -03/13/2001

100. EBR Registry Number: "IA01E0336" Type of Posting: "Instrument" Status: "Proposal" Abstract: King's Bay Development Corporation Permit to take water. -03/12/2001

101. EBR Registry Number: "IA01E0335" Type of Posting: "Instrument" Status: "Proposal" Abstract: Pilkington Glass of Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -03/12/2001

102. EBR Registry Number: "IA01E0334" Type of Posting: "Instrument" Status: "Proposal" Abstract: Mayfair Industries Approval for discharge into the natural environment other than water (i.e. Air). -03/12/2001

103. EBR Registry Number: "IA01E0333" Type of Posting: "Instrument" Status: "Proposal" Abstract: El-Met Parts Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/12/2001

104. EBR Registry Number: "IA01E0337" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Wunnumin Lake First Nation Approval for discharge into the natural environment other than water (i.e. Air). -03/12/2001

105. EBR Registry Number: "IA01E0331" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Timatt Holdings Inc. Permit to take water. -03/09/2001

106. EBR Registry Number: "IA00E1603" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Trus Joist Canada Ltd. Approval for a waste disposal site. -03/09/2001

107. EBR Registry Number: "IA01E0327" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Coretec Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/08/2001

108. EBR Registry Number: "IA01E0325" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 413467 Ontario Limited o/a Two Brothers Auto Body Approval for discharge into the natural environment other than water (i.e. Air). -03/08/2001

109. EBR Registry Number: "IA01E0324" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Nav Canada Approval for sewage works. -03/08/2001

110. EBR Registry Number: "IA01E0323" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Algonquin Power Systems Inc. Permit to take water. -03/08/2001

111. EBR Registry Number: "IA01E0322" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Fernbrook Natural Spring Water Co. Ltd. Permit to take water. -03/08/2001

112. EBR Registry Number: "IA01E0321" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Sierra Spray Painting Limited Approval for discharge into the natural environment other than water (i.e. Air). -03/08/2001

113. EBR Registry Number: "IA01E0320" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Don Green Permit to take water. -03/08/2001

114. EBR Registry Number: "IA01E0319" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Voyageur Panel Limited Approval for discharge into the natural environment other than water (i.e. Air). -03/08/2001

115. EBR Registry Number: "IA01E0303" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Gibson Welding (425242 Ontario Inc.) Permit to take water. -03/08/2001

116. EBR Registry Number: "IA01E0318" Type of Posting: "Instrument" Status: "Proposal"
Abstract: GDR Investments Permit to take water. -03/08/2001

117. EBR Registry Number: "IA01E0317" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Petro-Canada Approval for sewage works. -03/08/2001

118. EBR Registry Number: "IA00E1606" Type of Posting: "Instrument" Status: "Proposal" Abstract: Trus Joist Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -03/08/2001

119. EBR Registry Number: "IA01E0316" Type of Posting: "Instrument" Status: "Proposal" Abstract: Raytheon Systems Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -03/08/2001

120. EBR Registry Number: "IA01E0313" Type of Posting: "Instrument" Status: "Proposal" Abstract: Fortimo Office Furniture Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -03/07/2001

121. EBR Registry Number: "IA01E0311" Type of Posting: "Instrument" Status: "Proposal" Abstract: Bowater Pulp & Paper Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/07/2001

122. EBR Registry Number: "IA01E0310" Type of Posting: "Instrument" Status: "Proposal" Abstract: Waste Care Services Ltd. Approval for a waste disposal site. -03/07/2001
123. EBR Registry Number: "IA01E0309" Type of Posting: "Instrument" Status: "Proposal" Abstract: QRC Systems Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -03/07/2001

124. EBR Registry Number: "IA01E0308" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ayrdale Investments Inc. Permit to take water. -03/07/2001

125. EBR Registry Number: "IA01E0307" Type of Posting: "Instrument" Status: "Proposal" Abstract: Lafarge Canada Inc. Approval for sewage works. -03/07/2001

126. EBR Registry Number: "IA01E0300" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ultramar Canada Inc. Approval for sewage works. -03/06/2001

127. EBR Registry Number: "IA01E0306" Type of Posting: "Instrument" Status: "Proposal" Abstract: Corriveau Rebar Services & Equipment Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -03/06/2001

128. EBR Registry Number: "IA01E0305" Type of Posting: "Instrument" Status: "Proposal" Abstract: Precise Finishers Limited Approval for discharge into the natural environment other than water (i.e. Air). -03/06/2001

129. EBR Registry Number: "IA01E0302" Type of Posting: "Instrument" Status: "Proposal" Abstract: Firan Corporation Approval for discharge into the natural environment other than water (i.e. Air). -03/06/2001

130. EBR Registry Number: "IA01E0301" Type of Posting: "Instrument" Status: "Proposal" Abstract: Crown Cork & Seal Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/06/2001

131. **EBR Registry Number: "IA01E0297" Type of Posting: "Instrument" Status: "Proposal"**
Abstract: Moore Business Forms & Systems Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -03/06/2001

132. **EBR Registry Number: "IA01E0299" Type of Posting: "Instrument" Status: "Proposal"**
Abstract: Nelson Industrial Fabricating Limited Approval for discharge into the natural environment other than water (i.e. Air). -03/06/2001

133. **EBR Registry Number: "IA01E0294" Type of Posting: "Instrument" Status: "Proposal"**
Abstract: Petro Canada Approval for sewage works. -03/05/2001

134. **EBR Registry Number: "IA01E0291" Type of Posting: "Instrument" Status: "Proposal"**
Abstract: Law Auto Body Inc. Approval for discharge into the natural environment other than water (i.e. Air). -03/05/2001

135. **EBR Registry Number: "IA01E0290" Type of Posting: "Instrument" Status: "Proposal"**
Abstract: Fowler Construction Company Limited Approval for discharge into the natural environment other than water (i.e. Air). -03/05/2001

136. **EBR Registry Number: "IF01E0017" Type of Posting: "Instrument" Status: "Proposal"**
Abstract: The Township of Nairn and Hyman Approval of an Official Plan. -03/02/2001

137. **EBR Registry Number: "IF01E0015" Type of Posting: "Instrument" Status: "Proposal"**
Abstract: The City of Quinte West Approval of an Official Plan. -02/28/2001

138. **EBR Registry Number: "IF01E0016" Type of Posting: "Instrument" Status: "Proposal"**
Abstract: The Township of South Glengarry Approval of an Official Plan Amendment. -02/28/2001

139. **EBR Registry Number: "IA01E0282" Type of Posting: "Instrument" Status: "Proposal"**
Abstract: Rohm and Haas Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/28/2001

140. **EBR Registry Number: "IA01E0280" Type of Posting: "Instrument" Status: "Proposal"**
Abstract: Lincoln Electric Company of Canada Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/28/2001

141. **EBR Registry Number: "IA01E0279" Type of Posting: "Instrument" Status: "Proposal"**
Abstract: Amcan Castings Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/28/2001

142. **EBR Registry Number: "IA01E0278" Type of Posting: "Instrument" Status: "Proposal"**
Abstract: HSP Graphics Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -02/28/2001

143. **EBR Registry Number: "IA01E0277" Type of Posting: "Instrument" Status: "Proposal"**
Abstract: Ontario Power Generation Inc. Approval for sewage works. -02/28/2001

144. EBR Registry Number: "IA01E0276" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1358832 Ontario Limited Approval for sewage works. -02/28/2001

145. EBR Registry Number: "IA01E0275" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Weyerhaeuser Company Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/28/2001

146. EBR Registry Number: "IA01E0273" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Composite Building Products International Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/27/2001

147. EBR Registry Number: "IA01E0271" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Storm Island Furniture Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/27/2001

148. EBR Registry Number: "IA01E0270" Type of Posting: "Instrument" Status: "Proposal"
Abstract: A-1 Appraisals 2000 Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/27/2001

149. EBR Registry Number: "IA01E0269" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Horton Spice Mills Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -02/26/2001

150. EBR Registry Number: "IA01E0268" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Staticon Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/26/2001

151. EBR Registry Number: "IA01E0267" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Shorewood Packaging Corp. of Canada Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/26/2001

152. EBR Registry Number: "IA01E0266" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Kraft Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/23/2001

153. EBR Registry Number: "IA01E0264" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Wolverine Ratcliffs Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/23/2001

154. EBR Registry Number: "IA01E0262" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 879848 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/23/2001

155. EBR Registry Number: "IA01E0261" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Premier Candle Corp. Approval for discharge into the natural environment other than water (i.e. Air). -02/23/2001

156. EBR Registry Number: "IA01E0260" Type of Posting: "Instrument" Status: "Proposal" Abstract: Cedar Hills Pontiac Buick Cadillac GMC Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/23/2001

157. EBR Registry Number: "IA01E0259" Type of Posting: "Instrument" Status: "Proposal" Abstract: Electrical Contacts Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/22/2001

158. EBR Registry Number: "IA01E0258" Type of Posting: "Instrument" Status: "Proposal" Abstract: Mitel Networks Corporation Approval for discharge into the natural environment other than water (i.e. Air). -02/22/2001

159. EBR Registry Number: "IA01E0257" Type of Posting: "Instrument" Status: "Proposal" Abstract: 651302 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/22/2001

160. EBR Registry Number: "IA01E0256" Type of Posting: "Instrument" Status: "Proposal" Abstract: Meridian Operations Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/22/2001

161. EBR Registry Number: "IA01E0255" Type of Posting: "Instrument" Status: "Proposal" Abstract: Scavenger Recycling A division of 925252 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/22/2001

162. EBR Registry Number: "IA01E0254" Type of Posting: "Instrument" Status: "Proposal" Abstract: Wescam Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/22/2001

163. EBR Registry Number: "IA01E0250" Type of Posting: "Instrument" Status: "Proposal" Abstract: Rothsay, The Rendering Division of Maple Leaf Foods Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/20/2001

164. EBR Registry Number: "IA01E0247" Type of Posting: "Instrument" Status: "Proposal" Abstract: Wards of Mitchell Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/20/2001

165. EBR Registry Number: "IA01E0246" Type of Posting: "Instrument" Status: "Proposal" Abstract: Halla Climate Control Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/20/2001

166. EBR Registry Number: "IA01E0248" Type of Posting: "Instrument" Status: "Proposal" Abstract: Blue Circle Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/20/2001

167. EBR Registry Number: "IA01E0244" Type of Posting: "Instrument" Status: "Proposal" Abstract: Jan Cabinets Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -02/20/2001

168. EBR Registry Number: "IA01E0245" Type of Posting: "Instrument" Status: "Proposal" Abstract: ABC Plastics Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/20/2001

169. EBR Registry Number: "IF01E0013" Type of Posting: "Instrument" Status: "Proposal" Abstract: Christiaens. Andre Joseph Approval of an Official Plan Amendment. -02/19/2001

170. EBR Registry Number: "IA01E0243" Type of Posting: "Instrument" Status: "Proposal" Abstract: Inco Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/19/2001

171. EBR Registry Number: "IA01E0242" Type of Posting: "Instrument" Status: "Proposal" Abstract: Cosma International Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/19/2001

172. EBR Registry Number: "IA01E0241" Type of Posting: "Instrument" Status: "Proposal" Abstract: Extox Industries Inc. Approval for a waste disposal site. -02/19/2001

173. EBR Registry Number: "IA01E0194" Type of Posting: "Instrument" Status: "Proposal" Abstract: ClubLink Corporation Permit to take water. -02/19/2001

174. EBR Registry Number: "IA01E0240" Type of Posting: "Instrument" Status: "Proposal" Abstract: G-P Flakeboard Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/19/2001

175. EBR Registry Number: "IA01E0239" Type of Posting: "Instrument" Status: "Proposal" Abstract: Imperial Oil Limited Approval for sewage works. -02/19/2001

176. EBR Registry Number: "IA01E0166" Type of Posting: "Instrument" Status: "Proposal" Abstract: Notre Development Corporation Approval for a waste disposal site. -02/19/2001

177. EBR Registry Number: "IA01E0237" Type of Posting: "Instrument" Status: "Proposal" Abstract: 1165933 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/16/2001

178. EBR Registry Number: "IA01E0234" Type of Posting: "Instrument" Status: "Proposal" Abstract: Poly Dome Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/16/2001

179. EBR Registry Number: "IA01E0232" Type of Posting: "Instrument" Status: "Proposal" Abstract: TKA Fabco Corp. Approval for discharge into the natural environment other than water (i.e. Air). -02/16/2001

180. EBR Registry Number: "IA01E0233" Type of Posting: "Instrument" Status: "Proposal" Abstract: Mott Manufacturing Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -02/16/2001

181. EBR Registry Number: "IA01E0231" Type of Posting: "Instrument" Status: "Proposal" Abstract: Horseshoe Carbons Incorporated Approval for discharge into the natural environment other than water (i.e. Air). -02/16/2001

182. EBR Registry Number: "IA01E0226" Type of Posting: "Instrument" Status: "Proposal" Abstract: Imprint Technologies Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/15/2001

183. EBR Registry Number: "IA01E0224" Type of Posting: "Instrument" Status: "Proposal" Abstract: Blue Circle Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/15/2001

184. EBR Registry Number: "IA01E0222" Type of Posting: "Instrument" Status: "Proposal" Abstract: Reagens Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -02/14/2001

185. EBR Registry Number: "IA01E0221" Type of Posting: "Instrument" Status: "Proposal" Abstract: Atlas Specialty Steels Approval of a program preventing, reducing, or controlling discharge. -02/14/2001

186. EBR Registry Number: "IA01E0218" Type of Posting: "Instrument" Status: "Proposal" Abstract: Chemcraft International Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/14/2001

187. EBR Registry Number: "IA01E0215" Type of Posting: "Instrument" Status: "Proposal" Abstract: Shelburne Golf and Country Club Permit to take water. -02/14/2001

188. EBR Registry Number: "IF01E0011" Type of Posting: "Instrument" Status: "Proposal" Abstract: Murray and Beverley Hardy A proposal for provisional consent (no Official Plan in Place). -02/13/2001

189. EBR Registry Number: "IF01E0010" Type of Posting: "Instrument" Status: "Proposal" Abstract: Murray and Beverley Hardy A proposal for provisional consent (no Official Plan in Place). -02/13/2001

190. EBR Registry Number: "IA01E0211" Type of Posting: "Instrument" Status: "Proposal" Abstract: JML Windows Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/13/2001

191. EBR Registry Number: "IA01E0212" Type of Posting: "Instrument" Status: "Proposal" Abstract: Pillar Sausages and Delicatessens Limited Permit to take water. -02/13/2001

192. EBR Registry Number: "IA01E0210" Type of Posting: "Instrument" Status: "Proposal" Abstract: Atotech Canada Limited Approval for a waste disposal site. -02/13/2001

193. EBR Registry Number: "IA01E0209" Type of Posting: "Instrument" Status: "Proposal" Abstract: Capital Paving Inc. Permit to take water. -02/13/2001

194. EBR Registry Number: "IA01E0207" Type of Posting: "Instrument" Status: "Proposal" Abstract: Donald Choi Canada Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/13/2001

195. EBR Registry Number: "IA01E0206" Type of Posting: "Instrument" Status: "Proposal" Abstract: Cammda Corporation Approval for discharge into the natural environment other than water (i.e. Air). -02/13/2001

196. EBR Registry Number: "IA01E0204" Type of Posting: "Instrument" Status: "Proposal" Abstract: Trent Valley Sand & Stone Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/12/2001

197. EBR Registry Number: "IA01E0205" Type of Posting: "Instrument" Status: "Proposal" Abstract: Uniroyal Chemical Co./Cie Approval for sewage works. -02/12/2001

198. EBR Registry Number: "IA01E0203" Type of Posting: "Instrument" Status: "Proposal" Abstract: Dow Chemical Canada Incorporated Approval for discharge into the natural environment other than water (i.e. Air). -02/12/2001

199. EBR Registry Number: "IA01E0202" Type of Posting: "Instrument" Status: "Proposal" Abstract: Kuntz Electroplating Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/12/2001

200. EBR Registry Number: "IA01E0201" Type of Posting: "Instrument" Status: "Proposal" Abstract: Teknion Furniture Systems Approval for discharge into the natural environment other than water (i.e. Air). -02/12/2001

201. EBR Registry Number: "IA01E0198" Type of Posting: "Instrument" Status: "Proposal" Abstract: Goulet Gravel Limited Approval for a waste disposal site. -02/09/2001

202. EBR Registry Number: "IA01E0196" Type of Posting: "Instrument" Status: "Proposal" Abstract: Alpha Laboratories Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/09/2001

203. EBR Registry Number: "IA01E0195" Type of Posting: "Instrument" Status: "Proposal" Abstract: Niagara Employment Agency Inc. Approval for a waste disposal site. -02/09/2001

204. EBR Registry Number: "IA01E0193" Type of Posting: "Instrument" Status: "Proposal" Abstract: Scarborough Golf and Country Club Permit to take water. -02/09/2001

205. EBR Registry Number: "IA01E0192" Type of Posting: "Instrument" Status: "Proposal" Abstract: Royal Wodbine Golf Club Permit to take water. -02/09/2001

206. EBR Registry Number: "IA01E0190" Type of Posting: "Instrument" Status: "Proposal" Abstract: Teknion Furniture Systems Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/08/2001

207. EBR Registry Number: "IA01E0189" Type of Posting: "Instrument" Status: "Proposal" Abstract: Williams Operating Corporation Approval for discharge into the natural environment other than water (i.e. Air). -02/07/2001

208. EBR Registry Number: "IA01E0188" Type of Posting: "Instrument" Status: "Proposal" Abstract: Williams Operating Corporation Approval for discharge into the natural environment other than water (i.e. Air). -02/07/2001

209. EBR Registry Number: "IA01E0187" Type of Posting: "Instrument" Status: "Proposal" Abstract: Terrace Ford Lincoln Sales Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/07/2001

210. EBR Registry Number: "IA01E0186" Type of Posting: "Instrument" Status: "Proposal" Abstract: Pfizer Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/07/2001

211. EBR Registry Number: "IA01E0185" Type of Posting: "Instrument" Status: "Proposal" Abstract: Siemens Electric Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/07/2001

212. EBR Registry Number: "IA01E0184" Type of Posting: "Instrument" Status: "Proposal" Abstract: Casco Impregnated Papers, Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/07/2001

213. EBR Registry Number: "IA01E0183" Type of Posting: "Instrument" Status: "Proposal" Abstract: Don's Collision Centre Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/07/2001

214. EBR Registry Number: "IA01E0182" Type of Posting: "Instrument" Status: "Proposal" Abstract: Christopher G. Sheparski Approval for discharge into the natural environment other than water (i.e. Air). -02/07/2001

215. EBR Registry Number: "IA01E0181" Type of Posting: "Instrument" Status: "Proposal" Abstract: Hamilton Recycling Incorporated Approval for a waste disposal site. -02/07/2001

216. EBR Registry Number: "IA01E0180" Type of Posting: "Instrument" Status: "Proposal" Abstract: Lake Erie Steel Company Approval for discharge into the natural environment other than water (i.e. Air). -02/07/2001

217. EBR Registry Number: "IA01E0178" Type of Posting: "Instrument" Status: "Proposal" Abstract: Centennial Concrete Pipe and Products Incorporated Approval for discharge into the natural environment other than water (i.e. Air). -02/07/2001

218. EBR Registry Number: "IA01E0175" Type of Posting: "Instrument" Status: "Proposal" Abstract: Keith Robinson Permit to take water. -02/06/2001

219. EBR Registry Number: "IA01E0174" Type of Posting: "Instrument" Status: "Proposal"

Abstract: St. Clair Auto Repair Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/06/2001

220. EBR Registry Number: "IA01E0173" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Grey Condo Corporation #6 Permit to take water. -02/06/2001

221. EBR Registry Number: "IF01E1002" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Township of Pickle Lake Approval of an Official Plan. -02/05/2001

222. EBR Registry Number: "IA01E0171" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Shorewood Carton Corporation Limited Approval for discharge into the natural environment other than water (i.e. Air). -02/05/2001

223. EBR Registry Number: "IA01E0170" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Autotek Electroplating Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/05/2001

224. EBR Registry Number: "IA01E0169" Type of Posting: "Instrument" Status: "Proposal"
Abstract: SLI OPTO Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/05/2001

225. EBR Registry Number: "IA01E0168" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Zavcor Trucking Limited Approval for sewage works. -02/05/2001

226. EBR Registry Number: "IA01E0167" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Algoma Steel Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/05/2001

227. EBR Registry Number: "IA01E0165" Type of Posting: "Instrument" Status: "Proposal"
Abstract: BASF Canada Approval for discharge into the natural environment other than water (i.e. Air). -02/02/2001

228. EBR Registry Number: "IA01E0163" Type of Posting: "Instrument" Status: "Proposal"
Abstract: ATS Automation Tooling Systems Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/02/2001

229. EBR Registry Number: "IA01E0162" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Danny Angelo Ajdinovic Approval for discharge into the natural environment other than water (i.e. Air). -02/02/2001

230. EBR Registry Number: "IA01E0161" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Acorn Kitchens Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -02/01/2001

231. EBR Registry Number: "IA01E0160" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Akal Auto Repair Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -02/01/2001

232. EBR Registry Number: "IA01E0159" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Triangle Pump Service Ltd. Approval for a waste disposal site. -02/01/2001

233. EBR Registry Number: "IA01E0158" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1357071 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air). -02/01/2001

234. EBR Registry Number: "IA01E0156" Type of Posting: "Instrument" Status: "Proposal"
Abstract: UBE Automotive North America Sarnia Plant, Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/31/2001

235. EBR Registry Number: "IA01E0155" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Autosystems Manufacturing Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/31/2001

236. EBR Registry Number: "IA01E0154" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Alfa Paper Products Inc. Approval for a waste disposal site. -01/31/2001

237. EBR Registry Number: "IA01E0153" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Dover Corporation (Canada) Limited Approval for discharge into the natural environment other than water (i.e. Air). -01/31/2001

238. EBR Registry Number: "IA01E0152" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Bruce Foxton Approval for a waste disposal site. -01/31/2001

239. EBR Registry Number: "IA01E0149" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1413117 Ontario Incorporated Approval for discharge into the natural environment other than water (i.e. Air). -01/30/2001

240. EBR Registry Number: "IA01E0148" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Decoma International Corp. Approval for discharge into the natural environment other than water (i.e. Air). -01/30/2001

241. EBR Registry Number: "IA01E0151" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ashland Canada Corp./Corporation Ashland Canada Approval for discharge into the natural environment other than water (i.e. Air). -01/30/2001

242. EBR Registry Number: "IA01E0150" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Warren Bitulithic Limited Permit to take water. -01/30/2001

243. EBR Registry Number: "IA01E0146" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Vissan Designs Limited Approval for discharge into the natural environment other than water (i.e. Air). -01/30/2001

244. EBR Registry Number: "IA01E0145" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Rohm and Haas Canada Inc. Listed interim pesticides. -01/30/2001

245. EBR Registry Number: "IA01E0142" Type of Posting: "Instrument" Status: "Proposal"
Abstract: St. Catharines Machine Products Inc. Approval for discharge into
the natural environment other than water (i.e. Air). -01/29/2001

246. EBR Registry Number: "IA01E0143" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Vissan Designs Limited Approval for discharge into the natural environment
other than water (i.e. Air). -01/29/2001

247. EBR Registry Number: "IA01E0141" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Cosma International Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -01/29/2001

248. EBR Registry Number: "IA00E1740" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Meridian Automotive Systems Approval for discharge into the natural
environment other than water (i.e. Air). -01/29/2001

249. EBR Registry Number: "IA01E0139" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Siemens Milltronics Process Instruments Inc. Approval for discharge into
the natural environment other than water (i.e. Air). -01/26/2001

250. EBR Registry Number: "IA01E0138" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Unique Shutters Corporation Approval for discharge into the natural
environment other than water (i.e. Air). -01/26/2001

251. EBR Registry Number: "IA01E0137" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Bonar Packaging Corp. Approval for discharge into the natural environment
other than water (i.e. Air). -01/26/2001

252. EBR Registry Number: "IA01E0132" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Agrium Products Inc. Approval for sewage works. -01/25/2001

253. EBR Registry Number: "IA01E0133" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Wheeltronic Ltd. Approval for discharge into the natural environment
other than water (i.e. Air). -01/25/2001

254. EBR Registry Number: "IA01E0130" Type of Posting: "Instrument" Status: "Proposal"
Abstract: North West Transport Inc. Approval for sewage works. -01/25/2001

255. EBR Registry Number: "IA01E0129" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Canam Manac Group Inc. Approval for discharge into the natural
environment other than water (i.e. Air). -01/25/2001

256. EBR Registry Number: "IA01E0127" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Greely Sand & Gravel Inc. Approval for a waste disposal site. -01/25/2001

257. EBR Registry Number: "IA01E0126" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Guardian Industries Canada Corp. Approval for discharge into the natural

environment other than water (i.e. Air). -01/25/2001

258. EBR Registry Number: "IA01E0124" Type of Posting: "Instrument" Status: "Proposal" Abstract: Samuel Manu-Tech Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/25/2001

259. EBR Registry Number: "IA01E0123" Type of Posting: "Instrument" Status: "Proposal" Abstract: Benjamin Moore and Co., Limited Approval for discharge into the natural environment other than water (i.e. Air). -01/24/2001

260. EBR Registry Number: "IA01E0122" Type of Posting: "Instrument" Status: "Proposal" Abstract: John Crane Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/24/2001

261. EBR Registry Number: "IA01E0121" Type of Posting: "Instrument" Status: "Proposal" Abstract: Murray Hills Golf Course Permit to take water. -01/24/2001

262. EBR Registry Number: "IA01E0119" Type of Posting: "Instrument" Status: "Proposal" Abstract: George and Barabara Mikula Permit to take water. -01/24/2001

263. EBR Registry Number: "IA01E0116" Type of Posting: "Instrument" Status: "Proposal" Abstract: Baxter Corporation Approval for discharge into the natural environment other than water (i.e. Air). -01/24/2001

264. EBR Registry Number: "IA01E0118" Type of Posting: "Instrument" Status: "Proposal" Abstract: Pine River Cheese & Butter Cooperative Approval for sewage works. -01/24/2001

265. EBR Registry Number: "IA01E0114" Type of Posting: "Instrument" Status: "Proposal" Abstract: Massive Auto Collision Incorporated Approval for discharge into the natural environment other than water (i.e. Air). -01/23/2001

266. EBR Registry Number: "IA01E0107" Type of Posting: "Instrument" Status: "Proposal" Abstract: Fincore Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/23/2001

267. EBR Registry Number: "IA01E0105" Type of Posting: "Instrument" Status: "Proposal" Abstract: Transcontinental Printing Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/23/2001

268. EBR Registry Number: "IA01E0103" Type of Posting: "Instrument" Status: "Proposal" Abstract: Scaletta Container Service Limited Approval for a waste disposal site. -01/22/2001

269. EBR Registry Number: "IA01E0101" Type of Posting: "Instrument" Status: "Proposal" Abstract: Clublink Corporation Permit to take water. -01/22/2001

270. EBR Registry Number: "IA01E0100" Type of Posting: "Instrument" Status: "Proposal" Abstract: Maxxim Medical Canada Limited Approval for discharge into the

natural environment other than water (i.e. Air). -01/22/2001

271. EBR Registry Number: "IA01E0098" Type of Posting: "Instrument" Status: "Proposal" Abstract: Randy Pickard Incorporated Approval for discharge into the natural environment other than water (i.e. Air). -01/22/2001

272. EBR Registry Number: "IA01E0097" Type of Posting: "Instrument" Status: "Proposal" Abstract: Quinte's Isle Campark Permit to take water. -01/22/2001

273. EBR Registry Number: "IA01E0095" Type of Posting: "Instrument" Status: "Proposal" Abstract: Rose City Ford Sales Limited Approval for discharge into the natural environment other than water (i.e. Air). -01/22/2001

274. EBR Registry Number: "IA01E0092" Type of Posting: "Instrument" Status: "Proposal" Abstract: TRW Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air). 01/22/2001

275. EBR Registry Number: "IA01E0090" Type of Posting: "Instrument" Status: "Proposal" Abstract: TRW Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -01/19/2001

276. EBR Registry Number: "IA01E0089" Type of Posting: "Instrument" Status: "Proposal" Abstract: Provincial Sign Service Limited Approval for discharge into the natural environment other than water (i.e. Air). -01/19/2001

277. EBR Registry Number: "IA01E0088" Type of Posting: "Instrument" Status: "Proposal" Abstract: Algonquin Group Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/19/2001

278. EBR Registry Number: "IA01E0087" Type of Posting: "Instrument" Status: "Proposal" Abstract: Electrofuel Incorporated Approval for discharge into the natural environment other than water (i.e. Air). -01/19/2001

279. EBR Registry Number: "IA01E0086" Type of Posting: "Instrument" Status: "Proposal" Abstract: Weyerhaeuser Company Limited Approval for sewage works. -01/19/2001

280. EBR Registry Number: "IA01E0085" Type of Posting: "Instrument" Status: "Proposal" Abstract: Mountainside Collision Service Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/18/2001

281. EBR Registry Number: "IA01E0083" Type of Posting: "Instrument" Status: "Proposal" Abstract: Starcan Corporation Approval for discharge into the natural environment other than water (i.e. Air). -01/18/2001

282. EBR Registry Number: "IA01E0084" Type of Posting: "Instrument" Status: "Proposal" Abstract: Amcan Castings Limited Approval for discharge into the natural environment other than water (i.e. Air). -01/18/2001

283. EBR Registry Number: "IA01E0080" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Nabisco Limited Approval for sewage works. -01/17/2001

285. EBR Registry Number: "IA01E0081" Type of Posting: "Instrument" Status: "Proposal"
Abstract: A-1 Oil Services Limited Approval for a waste disposal site. -01/17/2001

286. EBR Registry Number: "IA01E0078" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Extender Minerals of Canada Limited Permit to take water. -01/16/2001

287. EBR Registry Number: "IA01E0077" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Harmony Printing Limited Approval for discharge into the natural
environment other than water (i.e. Air). -01/16/2001

288. EBR Registry Number: "IA01E0075" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Elka Industries Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -01/16/2001

289. EBR Registry Number: "IA01E0071" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Norfolk Disposal Services Limited Approval for a waste disposal site. -01/16/2001

290. EBR Registry Number: "IA01E0070" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Chatham Towing Services Ltd. Approval for discharge into the natural
environment other than water (i.e. Air). -01/16/2001

291. EBR Registry Number: "IA01E0069" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Dana Canada Inc., Parrish Light Vehicle Structures Approval for discharge
into the natural environment other than water (i.e. Air). -01/15/2001

292. EBR Registry Number: "IA01E0068" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Weyerhaeuser Company Limited - Ear Falls Sawmill Approval for
discharge into the natural environment other than water (i.e. Air). -01/15/2001

293. EBR Registry Number: "IA01E0066" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Budget Environmental Disposal Ltd. Approval for a waste disposal site. -01/15/2001

294. EBR Registry Number: "IA01E0065" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Pantelis Baxevanis Approval for discharge into the natural environment
other than water (i.e. Air). -01/15/2001

295. EBR Registry Number: "IA01E0064" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Commercial Alcohols Inc. Approval for discharge into the natural
environment other than water (i.e. Air). -01/15/2001

296. EBR Registry Number: "IA01E0063" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Andy Howell Approval for discharge into the natural environment
other than water (i.e. Air). -01/15/2001

297. EBR Registry Number: "IA01E0061" Type of Posting: "Instrument" Status: "Proposal" Abstract: Battler Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/12/2001

298. EBR Registry Number: "IA01E0059" Type of Posting: "Instrument" Status: "Proposal" Abstract: Oxford Sand & Gravel Limited Approval for discharge into the natural environment other than water (i.e. Air). -01/12/2001

299. EBR Registry Number: "IA01E0058" Type of Posting: "Instrument" Status: "Proposal" Abstract: Quebecor World Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/12/2001

300. EBR Registry Number: "IA01E0054" Type of Posting: "Instrument" Status: "Proposal" Abstract: East-West Disposal Services Limited Approval for a waste disposal site. -01/11/2001

301. EBR Registry Number: "IA01E0051" Type of Posting: "Instrument" Status: "Proposal" Abstract: Muller Manufacturing Limited Approval for discharge into the natural environment other than water (i.e. Air). -01/11/2001

302. EBR Registry Number: "IA01E0050" Type of Posting: "Instrument" Status: "Proposal" Abstract: Apollo Health & Beauty Care Approval for discharge into the natural environment other than water (i.e. Air). -01/11/2001

303. EBR Registry Number: "IA01E0049" Type of Posting: "Instrument" Status: "Proposal" Abstract: Romano Disposal Services Inc. Approval for a waste disposal site. -01/11/2001

304. EBR Registry Number: "IA01E0047" Type of Posting: "Instrument" Status: "Proposal" Abstract: Carmasters Automotive Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/11/2001

305. EBR Registry Number: "IA01E0046" Type of Posting: "Instrument" Status: "Proposal" Abstract: Monarch Construction Limited Permit to take water. -01/11/2001

306. EBR Registry Number: "IA01E0045" Type of Posting: "Instrument" Status: "Proposal" Abstract: Sinteris Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/11/2001

307. EBR Registry Number: "IA01E0044" Type of Posting: "Instrument" Status: "Proposal" Abstract: CW Kitchens Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/10/2001

308. EBR Registry Number: "IA01E0040" Type of Posting: "Instrument" Status: "Proposal" Abstract: Sunoco Inc. Approval for sewage works. -01/09/2001

309. EBR Registry Number: "IA01E0039" Type of Posting: "Instrument" Status: "Proposal" Abstract: Glenbriar Bottled Water Company Limited Permit to take water. -01/09/2001

310. EBR Registry Number: "IT01E0004" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Minto Properties Limited (agent for National Capitol Commission)
Application for variances from the Gasoline Handling Act . -01/09/2001

311. EBR Registry Number: "IA01E0036" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Fleetwood Canada Ltd. Approval for discharge into the natural environment
other than water (i.e. Air). -01/09/2001

312. EBR Registry Number: "IA01E0035" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Aberfoyle Springs Co. (A subsidiary of Nestle Canada Inc.) Permit to take
water. -01/09/2001

313. EBR Registry Number: "IA01E0034" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ruff Clarkson Steel Limited Approval for discharge into the natural
environment other than water (i.e. Air). -01/09/2001

314. EBR Registry Number: "IA01E0033" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Canroof Corporation Inc. Approval for discharge into the natural
environment other than water (i.e. Air). -01/09/2001

315. EBR Registry Number: "IA01E0032" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Vitafoam Products Canada Limited Approval for discharge into the
natural environment other than water (i.e. Air). -01/08/2001

316. EBR Registry Number: "IA01E0031" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Canadian Waste Services Inc. Approval for a waste disposal site. -01/08/2001

317. EBR Registry Number: "IA01E0029" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Decoustics Limited Approval for discharge into the natural environment
other than water (i.e. Air). -01/08/2001

318. EBR Registry Number: "IA01E0028" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Collins & Aikman Products Co. Approval for discharge into the natural
environment other than water (i.e. Air). -01/08/2001

319. EBR Registry Number: "IF01E0003" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The City of Brant Approval of an Official Plan. -01/05/2001

320. EBR Registry Number: "IA01E0024" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Clairmonte Olvin Lashley Approval for discharge into the natural
environment other than water (i.e. Air). -01/05/2001

321. EBR Registry Number: "IA01E0023" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Hodgson Properties Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -01/05/2001

322. EBR Registry Number: "IA01E0025" Type of Posting: "Instrument" Status: "Proposal"

Abstract: Cambridge Kitchens 2000 Approval for discharge into the natural environment other than water (i.e. Air). -01/05/2001

323. EBR Registry Number: "IA01E1945" Type of Posting: "Instrument" Status: "Proposal" Abstract: Irwin Cabinet Works Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -01/05/2001

324. EBR Registry Number: "IA01E0021" Type of Posting: "Instrument" Status: "Proposal" Abstract: Filtran Micro-Circuits Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/05/2001

325. EBR Registry Number: "IA01E0019" Type of Posting: "Instrument" Status: "Proposal" Abstract: Troy Manufacturing Limited Approval for discharge into the natural environment other than water (i.e. Air). -01/04/2001

326. EBR Registry Number: "IA01E0018" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ford Motor Company of Canada Ltd. Essex Manufacturing Approval for discharge into the natural environment other than water (i.e. Air). -01/04/2001

327. EBR Registry Number: "IA01E0020" Type of Posting: "Instrument" Status: "Proposal" Abstract: Emerson Electric Canada Limited Approval for discharge into the natural environment other than water (i.e. Air). -01/04/2001

328. EBR Registry Number: "IA01E0017" Type of Posting: "Instrument" Status: "Proposal" Abstract: Meritor Suspension Systems Company Approval for discharge into the natural environment other than water (i.e. Air). -01/03/2001

329. EBR Registry Number: "IA01E0014" Type of Posting: "Instrument" Status: "Proposal" Abstract: 619637 Ontario Limited, o/a Border City Environmental Services Approval for a waste disposal site. -01/03/2001

330. EBR Registry Number: "IA01E0007" Type of Posting: "Instrument" Status: "Proposal" Abstract: Garland Commercial Ranges Limited Approval for discharge into the natural environment other than water (i.e. Air). -01/03/2001

331. EBR Registry Number: "IT01E0001" Type of Posting: "Instrument" Status: "Proposal" Abstract: Petro Canada Application for variances from the Gasoline Handling Act. -01/02/2001

332. EBR Registry Number: "IA01E0006" Type of Posting: "Instrument" Status: "Proposal" Abstract: Bourgeois Motors Limited Approval for discharge into the natural environment other than water (i.e. Air). -01/02/2001

333. EBR Registry Number: "IA01E0005" Type of Posting: "Instrument" Status: "Proposal" Abstract: AstraZeneca Canada Incorporated Approval for discharge into the natural environment other than water (i.e. Air). -01/02/2001

334. EBR Registry Number: "IA01E0004" Type of Posting: "Instrument" Status: "Proposal"

Abstract: Halla Climate Control Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -01/02/2001

335. EBR Registry Number: "IA01E0002" Type of Posting: "Instrument" Status: "Proposal" Abstract: Faurecia Automotive Seating Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -01/02/2001

336. EBR Registry Number: "IA01E0001" Type of Posting: "Instrument" Status: "Proposal" Abstract: Eagle Floor Supply Incorporated Approval for discharge into the natural environment other than water (i.e. Air). -01/02/2001

337. EBR Registry Number: "IA00E1953" Type of Posting: "Instrument" Status: "Proposal" Abstract: Battle Mountain Canada Ltd., Holloway Mines Approval for discharge into the natural environment other than water (i.e. Air). -12/29/2000

338. EBR Registry Number: "IA00E1951" Type of Posting: "Instrument" Status: "Proposal" Abstract: Tembec Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air). -12/28/2000

339. EBR Registry Number: "IA00E1950" Type of Posting: "Instrument" Status: "Proposal" Abstract: Lockwood Manufacturing Inc. Approval for discharge into the natural environment other than water (i.e. Air). -12/28/2000

340. EBR Registry Number: "IA00E1948" Type of Posting: "Instrument" Status: "Proposal" Abstract: Business Accessories Inc. Approval for discharge into the natural environment other than water (i.e. Air). -12/28/2000

341. EBR Registry Number: "IA00E1941" Type of Posting: "Instrument" Status: "Proposal" Abstract: Petro Canada Approval for discharge into the natural environment other than water (i.e. Air). -12/27/2000

342. EBR Registry Number: "IA00E1939" Type of Posting: "Instrument" Status: "Proposal" Abstract: DaimlerChrysler Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -12/27/2000

343. EBR Registry Number: "IA00E1936" Type of Posting: "Instrument" Status: "Proposal" Abstract: Campbell Soup Company Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -12/27/2000

344. EBR Registry Number: "IA00E1935" Type of Posting: "Instrument" Status: "Proposal" Abstract: Procter & Gamble Inc. Approval for discharge into the natural environment other than water (i.e. Air). -12/27/2000

345. EBR Registry Number: "IA00E1933" Type of Posting: "Instrument" Status: "Proposal" Abstract: Emerson Electric Canada Limited Approval for discharge into the natural environment other than water (i.e. Air). -12/22/2000

346. EBR Registry Number: "IA00E1930" Type of Posting: "Instrument" Status: "Proposal" Abstract: Edward A. Gow & Margaret Joan Gow Approval for discharge into the natural environment other than water (i.e. Air). -12/22/2000

347. EBR Registry Number: "IA00E1929" Type of Posting: "Instrument" Status: "Proposal" Abstract: Nova Chemicals Corporation Approval for discharge into the natural environment other than water (i.e. Air). -12/22/2000

348. EBR Registry Number: "IA00E1928" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ultramar Ltd. Approval for sewage works. -12/22/2000

349. EBR Registry Number: "IA00E1927" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ultramar Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -12/22/2000

350. EBR Registry Number: "IA00E1926" Type of Posting: "Instrument" Status: "Proposal" Abstract: International Truck and Engine Corporation Canada Approval for discharge into the natural environment other than water (i.e. Air). -12/22/2000

351. EBR Registry Number: "IA00E1919" Type of Posting: "Instrument" Status: "Proposal" Abstract: National Silicates Approval for discharge into the natural environment other than water (i.e. Air). -12/21/2000

352. EBR Registry Number: "IA00E1915" Type of Posting: "Instrument" Status: "Proposal" Abstract: Imperial Oil Ltd Order for remedial work. -12/21/2000

353. EBR Registry Number: "IA00E1914" Type of Posting: "Instrument" Status: "Proposal" Abstract: Safety-Kleen Ltd. Approval for a waste disposal site. -12/21/2000

354. EBR Registry Number: "IA00E1918" Type of Posting: "Instrument" Status: "Proposal" Abstract: Novartis Crop Protection Canada Inc. Listed interim pesticides. -12/21/2000

355. EBR Registry Number: "IA00E1913" Type of Posting: "Instrument" Status: "Proposal" Abstract: General Electric Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -12/21/2000

356. EBR Registry Number: "IA00E1912" Type of Posting: "Instrument" Status: "Proposal" Abstract: Armstrong Cheese Company Limited Permit to take water. -12/21/2000

357. EBR Registry Number: "IA00E1910" Type of Posting: "Instrument" Status: "Proposal" Abstract: Petro Canada Approval for discharge into the natural environment other than water (i.e. Air). -12/21/2000

358. EBR Registry Number: "IA00E1905" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ford Motor Company of Canada Approval for discharge into the natural environment other than water (i.e. Air). -12/18/2000

359. EBR Registry Number: "IA00E1907" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 421674 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air). -12/18/2000

360. EBR Registry Number: "IA00E1908" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Michael Denis McCarthy Permit to take water. -12/18/2000

361. EBR Registry Number: "IA00E1909" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Paperboard Industries Corporation Approval for discharge into the natural environment other than water (i.e. Air). -12/18/2000

362. EBR Registry Number: "IA00E1902" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Bridgestone/Firestone Canada Inc. Approval for sewage works. -12/18/2000

363. EBR Registry Number: "IA00E1901" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Automatic Staple Manufacturing Inc. Approval for discharge into the natural environment other than water (i.e. Air). -12/14/2000

364. EBR Registry Number: "IA00E1898" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ford Motor Company of Canada Approval for discharge into the natural environment other than water (i.e. Air). -12/14/2000

365. EBR Registry Number: "IA00E1897" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 3M Canada Company, Havelock Industrial Minerals Plant Approval for discharge into the natural environment other than water (i.e. Air). -12/13/2000

366. EBR Registry Number: "IA00E1894" Type of Posting: "Instrument" Status: "Proposal"
Abstract: GMC Coating Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -12/13/2000

367. EBR Registry Number: "IA00E1891" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Carpenter Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -12/12/2000

368. EBR Registry Number: "IA00E1890" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Great West Timber Limited Approval for discharge into the natural environment other than water (i.e. Air). -12/12/2000

369. EBR Registry Number: "IA00E1889" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Imperial Auto Collision (1991) Inc. Approval for discharge into the natural environment other than water (i.e. Air). -12/12/2000

370. EBR Registry Number: "IF00E1042" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Township of Bonfield Approval of an Official Plan Amendment. -12/11/2000

371. EBR Registry Number: "IA00E1884" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Joe Kerr Limited Permit to take water. -12/11/2000

372. EBR Registry Number: "IA00E1883" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ingram Harold Wessell Permit to take water. -12/11/2000

373. EBR Registry Number: "IA00E1877" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Blackburn Development Corporation Permit to take water. -12/08/2000

374. EBR Registry Number: "IA00E1871" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Wavefront Environmental Technologies Approval for discharge into the natural environment other than water (i.e. Air). -12/08/2000

375. EBR Registry Number: "IA00E1868" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1337286 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air). -12/08/2000

376. EBR Registry Number: "IA00E1874" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ducks Unlimited Canada Permit to take water. -12/08/2000

377. EBR Registry Number: "IF00E0033" Type of Posting: "Instrument" Status: "Proposal"
Abstract: David W. Hughes A proposal for provisional consent (no Official Plan in Place). -12/07/2000

378. EBR Registry Number: "IF00E0032" Type of Posting: "Instrument" Status: "Proposal"
Abstract: David W. Hughes A proposal for provisional consent (no Official Plan in Place). -12/07/2000

379. EBR Registry Number: "IA00E1866" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Maxtech Manufacturing Inc. Approval for discharge into the natural environment other than water (i.e. Air). -12/07/2000

380. EBR Registry Number: "IA00E1863" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1260269 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air). -12/07/2000

381. EBR Registry Number: "IA00E1862" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Safety-Kleen Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -12/07/2000

382. EBR Registry Number: "IA00E1861" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Jeffbrett Enterprises Limited Approval for discharge into the natural environment other than water (i.e. Air). -12/07/2000

383. EBR Registry Number: "IA00E1865" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 781998 Ontario Inc. Approval for a waste disposal site. -12/07/2000

384. EBR Registry Number: "IA00E1858" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Accurate of Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -12/06/2000

385. EBR Registry Number: "IA00E1856" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1397317 Ontario Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -12/06/2000

386. EBR Registry Number: "IA00E1857" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Kelsey-Hayes Canada Ltd. Approval for discharge into the natural environment
other than water (i.e. Air). -12/06/2000

387. EBR Registry Number: "IA00E1854" Type of Posting: "Instrument" Status: "Proposal"
Abstract: S & C Electric Canada Ltd. Approval for discharge into the natural
environment other than water (i.e. Air). -12/06/2000

388. EBR Registry Number: "IA00E1855" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Bombardier Inc. Approval for discharge into the natural environment other
than water (i.e. Air). -12/06/2000

389. EBR Registry Number: "IA00E1851" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 427048 Ontario Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -12/05/2000

390. EBR Registry Number: "IA00E1843" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Lakeridge Precision Inc. Permit to take water. -12/05/2000

391. EBR Registry Number: "IA00E1845" Type of Posting: "Instrument" Status: "Proposal"
Abstract: I. G. Machine & Fibers Ltd. Approval for discharge into the natural
environment other than water (i.e. Air). -12/05/2000

392. EBR Registry Number: "IA00E1846" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Pickseed Canada Inc Permit to take water. -12/05/2000

393. EBR Registry Number: "IA00E1848" Type of Posting: "Instrument" Status: "Proposal"
Abstract: North American Steel Equipment Company Ltd. Approval for discharge
into the natural environment other than water (i.e. Air). -12/05/2000

394. EBR Registry Number: "IA00E1842" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Flemington Golf Course. Permit to take water. -12/05/2000

395. EBR Registry Number: "IA00E1836" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Weber Manufacturing Limited Approval for discharge into the natural
environment other than water (i.e. Air). -12/04/2000

396. EBR Registry Number: "IA00E1835" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Park Lane Chevrolet Oldsmobile Cadillac Limited Approval for discharge
into the natural environment other than water (i.e. Air). -12/04/2000

397. EBR Registry Number: "IA00E1837" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Smith's Construction Company Arnprior Limited Permit to take water. -12/04/2000

398. EBR Registry Number: "IF00E0030" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Township of Hope Approval of an Official Plan Amendment. -12/01/2000

399. EBR Registry Number: "IF00E0029" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Township of Lutterworth Approval of an Official Plan. -12/01/2000

400. EBR Registry Number: "IA00E1829" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Wescast Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/30/2000

401. EBR Registry Number: "IA00E1827" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Jim Vincent De Gasperis Order for preventative measures. -11/30/2000

402. EBR Registry Number: "IA00E1825" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Richard Brunet Naturist Club Inc. Permit to take water. -11/29/2000

403. EBR Registry Number: "IA00E1823" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Nu Style Kitchens & Bath Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/29/2000

404. EBR Registry Number: "IA00E1817" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Inco Limited Order for controlling contaminant discharge. -11/28/2000

405. EBR Registry Number: "IA00E1813" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Michael Gallagher Barr, In Trust Permit to take water. -11/27/2000

406. EBR Registry Number: "IA00E1814" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Safety-Kleen Ltd. Approval for a waste disposal site. -11/27/2000

407. EBR Registry Number: "IA00E1812" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Stackpole Limited Approval for discharge into the natural environment other than water (i.e. Air). -11/27/2000

408. EBR Registry Number: "IF00E1040" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Township of Beckwith Approval of an Official Plan Amendment. -11/24/2000

409. EBR Registry Number: "IF00E0026" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Town of Lakeshore Approval of an Official Plan Amendment. -11/24/2000

410. EBR Registry Number: "IA00E1806" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Aventis Pasteur Limited Approval for discharge into the natural environment other than water (i.e. Air). -11/24/2000

411. EBR Registry Number: "IA00E1805" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Enbridge Consumers Gas Approval for discharge into the natural environment other than water (i.e. Air). -11/24/2000

412. EBR Registry Number: "IA00E1804" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Cappola Food Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/24/2000

413. EBR Registry Number: "IA00E1803" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Domtar Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/24/2000

414. EBR Registry Number: "IA00E1802" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Enbridge Consumers Gas Approval for discharge into the natural environment other than water (i.e. Air). -11/24/2000

415. EBR Registry Number: "IA00E1801" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Enbridge Consumers Gas Approval for discharge into the natural environment other than water (i.e. Air). -11/24/2000

416. EBR Registry Number: "IA00E1807" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Enbridge Consumers Gas Approval for discharge into the natural environment other than water (i.e. Air). -11/24/2000

417. EBR Registry Number: "IA00E1800" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Designer Profile Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/24/2000

418. EBR Registry Number: "IA00E1798" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Enbridge Consumers Gas Approval for discharge into the natural environment other than water (i.e. Air). -11/23/2000

419. EBR Registry Number: "IA00E1797" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Mobil Chemical Canada Limited Approval for discharge into the natural environment other than water (i.e. Air). -11/23/2000

420. EBR Registry Number: "IA00E1779" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1061154 Ontario Inc. Permit to take water. -11/23/2000

421. EBR Registry Number: "IA00E1795" Type of Posting: "Instrument" Status: "Proposal"
Abstract: R.W. Tomlinson Ltd. Permit to take water. -11/22/2000

422. EBR Registry Number: "IA00E1791" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Corporation of the Township of Monmouth Approval for a waste disposal site. -11/22/2000

423. EBR Registry Number: "IA00E1786" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Erin Park Collision Centre Approval for discharge into the natural environment other than water (i.e. Air). -11/21/2000

424. EBR Registry Number: "IA00E1785" Type of Posting: "Instrument" Status: "Proposal"

Abstract: Norfolk Co-Operative Co. Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -11/21/2000

425. EBR Registry Number: "IA00E1784" Type of Posting: "Instrument" Status: "Proposal" Abstract: Gary Yiu Approval for discharge into the natural environment other than water (i.e. Air). -11/21/2000

426. EBR Registry Number: "IA00E1782" Type of Posting: "Instrument" Status: "Proposal" Abstract: Duratex Hardwood Flooring Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/21/2000

427. EBR Registry Number: "IA00E1780" Type of Posting: "Instrument" Status: "Proposal" Abstract: Southwestern Manufacturing Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/21/2000

428. EBR Registry Number: "IA00E1778" Type of Posting: "Instrument" Status: "Proposal" Abstract: Bluewater Fibre Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/21/2000

429. EBR Registry Number: "IA00E1777" Type of Posting: "Instrument" Status: "Proposal" Abstract: General Electric Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/21/2000

430. EBR Registry Number: "IF00E0025" Type of Posting: "Instrument" Status: "Proposal" Abstract: Gayle Linda Zrum A proposal for provisional consent (no Official Plan in Place). -11/20/2000

431. EBR Registry Number: "IA00E1774" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ward Broome Coating Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -11/20/2000

432. EBR Registry Number: "IA00E1746" Type of Posting: "Instrument" Status: "Proposal" Abstract: Falconbridge Ltd. Order prohibiting or regulating discharge of sewage into water. -11/17/2000

433. EBR Registry Number: "IA00E1771" Type of Posting: "Instrument" Status: "Proposal" Abstract: Du Pont Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/17/2000

434. EBR Registry Number: "IA00E1767" Type of Posting: "Instrument" Status: "Proposal" Abstract: IKO Industries Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -11/17/2000

435. EBR Registry Number: "IA00E1766" Type of Posting: "Instrument" Status: "Proposal" Abstract: Torcad Company Approval for discharge into the natural environment other than water (i.e. Air). -11/17/2000

436. EBR Registry Number: "IA00E1764" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Euclid Industries Canada Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -11/16/2000

437. EBR Registry Number: "IF00E0022" Type of Posting: "Instrument" Status: "Proposal"
Abstract: City of Thunder Bay Approval of an Official Plan. -11/15/2000

438. EBR Registry Number: "IF00E0021" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Town of Geraldton Approval of an Official Plan Amendment. -11/15/2000

439. EBR Registry Number: "IA00E1760" Type of Posting: "Instrument" Status: "Proposal"
Abstract: OMYA (Canada) Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/15/2000

440. EBR Registry Number: "IA00E1104" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Canadian Technical Tape Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -11/15/2000

441. EBR Registry Number: "IA00E1754" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Eco Wood Products Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -11/14/2000

442. EBR Registry Number: "IA00E1349" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Temple Pembroke Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/14/2000

443. EBR Registry Number: "IA00E1753" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Kraft Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/14/2000

444. EBR Registry Number: "IA00E1751" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Nor Baker Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/14/2000

445. EBR Registry Number: "IA00E1747" Type of Posting: "Instrument" Status: "Proposal"
Abstract: XDG Metal Fabrication Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/10/2000

446. EBR Registry Number: "IA00E1743" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Eco Wood Products Ltd. Approval for a waste disposal site. -11/09/2000

447. EBR Registry Number: "IF00E0018" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Township of East Ferris Approval of an Official Plan. -11/09/2000

448. EBR Registry Number: "IA00E1742" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ventra Group Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/09/2000

449. EBR Registry Number: "IF00E0019" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Reginald Guillemette Approval of an Official Plan Amendment. -11/08/2000

450. EBR Registry Number: "IA00E1741" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1421301 Ontario Inc. Approval for a waste disposal site. -11/08/2000

451. EBR Registry Number: "IA00E1739" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Pinchin Environmental Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -11/07/2000

452. EBR Registry Number: "IA00E1738" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1350014 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/07/2000

453. EBR Registry Number: "IA00E1737" Type of Posting: "Instrument" Status: "Proposal"
Abstract: COM DEV Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -11/07/2000

454. EBR Registry Number: "IA00E1734" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Abie's Auto body & Paint Limited Approval for discharge into the natural environment other than water (i.e. Air). -11/07/2000

455. EBR Registry Number: "IA00E1733" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Patrick Cooper Approval for discharge into the natural environment other than water (i.e. Air). -11/07/2000

456. EBR Registry Number: "IA00E1617" Type of Posting: "Instrument" Status: "Proposal"
Abstract: James Dick Construction Limited Permit to take water. -11/07/2000

457. EBR Registry Number: "IA00E1731" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1336859 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/06/2000

458. EBR Registry Number: "IA00E1726" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 949710 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air). -11/06/2000

459. EBR Registry Number: "IA00E1721" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Belican Holdings Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -11/03/2000

460. EBR Registry Number: "IA00E1720" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Leslie G. Jamieson, President Order for remedial work. -11/03/2000

461. EBR Registry Number: "IA00E1716" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Gary Steacy Dismantling Ltd. Approval for a waste disposal site. -11/02/2000

462. EBR Registry Number: "IA00E1715" Type of Posting: "Instrument" Status: "Proposal" Abstract: Goldstar Plastics Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/02/2000

463. EBR Registry Number: "IA00E0976" Type of Posting: "Instrument" Status: "Proposal" Abstract: Medical Waste Management Approval for a waste disposal site. -11/02/2000

464. EBR Registry Number: "IA00E0981" Type of Posting: "Instrument" Status: "Proposal" Abstract: Medical Waste Management Inc. Approval for discharge into the natural environment other than water (i.e. Air). -11/02/2000

465. EBR Registry Number: "IA00E1712" Type of Posting: "Instrument" Status: "Proposal" Abstract: Canadian Moulding Design Incorporated Approval for discharge into the natural environment other than water (i.e. Air). -11/01/2000

466. EBR Registry Number: "IA00E1707" Type of Posting: "Instrument" Status: "Proposal" Abstract: Croma Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/31/2000

467. EBR Registry Number: "IA00E1705" Type of Posting: "Instrument" Status: "Proposal" Abstract: CCL Industries Inc. operationg as CCL Custom Manufacturing Approval for discharge into the natural environment other than water (i.e. Air). -10/30/2000

468. EBR Registry Number: "IF00E1039" Type of Posting: "Instrument" Status: "Proposal" Abstract: The Township of Front of Leeds & Lansdowne Approval of an Official Plan Amendment. -10/27/2000

469. EBR Registry Number: "IA00E1700" Type of Posting: "Instrument" Status: "Proposal" Abstract: Shell Canada Products Limited Approval for sewage works. -10/27/2000

470. EBR Registry Number: "IA00E1698" Type of Posting: "Instrument" Status: "Proposal" Abstract: Shell Canada Products Limited Approval for sewage works. -10/27/2000

471. EBR Registry Number: "IA00E1696" Type of Posting: "Instrument" Status: "Proposal" Abstract: R.W. Tomlinson Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -10/27/2000

472. EBR Registry Number: "IT00E0087" Type of Posting: "Instrument" Status: "Proposal" Abstract: Full Stop Services Limited Application for variances from the Gasoline Handling Act. -10/26/2000

473. EBR Registry Number: "IA00E1695" Type of Posting: "Instrument" Status: "Proposal" Abstract: Fisher Gauge Limited Approval for discharge into the natural environment other than water (i.e. Air). -10/26/2000

474. EBR Registry Number: "IA00E1692" Type of Posting: "Instrument" Status: "Proposal" Abstract: BeachviLime Limited Approval for discharge into the natural environment

other than water (i.e. Air). -10/25/2000

475. EBR Registry Number: "IA00E1685" Type of Posting: "Instrument" Status: "Proposal" Abstract: Transcontinental Printing Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/25/2000

476. EBR Registry Number: "IA00E1693" Type of Posting: "Instrument" Status: "Proposal" Abstract: 88 Auto Approval for discharge into the natural environment other than water (i.e. Air). -10/25/2000

477. EBR Registry Number: "IA00E1691" Type of Posting: "Instrument" Status: "Proposal" Abstract: Buckham Transport Ltd. Approval for a waste disposal site. -10/25/2000

478. EBR Registry Number: "IA00E1690" Type of Posting: "Instrument" Status: "Proposal" Abstract: R. W. Tomlinson Permit to take water. -10/25/2000

479. EBR Registry Number: "IA00E1679" Type of Posting: "Instrument" Status: "Proposal" Abstract: 1093568 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/24/2000

480. EBR Registry Number: "IA00E1680" Type of Posting: "Instrument" Status: "Proposal" Abstract: Shorewood Packaging Permit to take water. -10/24/2000

481. EBR Registry Number: "IA00E1676" Type of Posting: "Instrument" Status: "Proposal" Abstract: 1398186 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air). -10/24/2000

482. EBR Registry Number: "IA00E1673" Type of Posting: "Instrument" Status: "Proposal" Abstract: Long Manufacturing Limited Approval for sewage works. -10/24/2000

483. EBR Registry Number: "IA00E1667" Type of Posting: "Instrument" Status: "Proposal" Abstract: Tor-Pharm Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/23/2000

484. EBR Registry Number: "IA00E1666" Type of Posting: "Instrument" Status: "Proposal" Abstract: Wellmaster Pipe & Supply Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/23/2000

485. EBR Registry Number: "IA00E1665" Type of Posting: "Instrument" Status: "Proposal" Abstract: Lafarge Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/23/2000

486. EBR Registry Number: "IA00E1662" Type of Posting: "Instrument" Status: "Proposal" Abstract: Foxwood Golf Course Permit to take water. -10/20/2000

487. EBR Registry Number: "IA00E1661" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ponderosa Nature Resort Permit to take water. -10/20/2000

488. EBR Registry Number: "IA00E1660" Type of Posting: "Instrument" Status: "Proposal" Abstract: Raymond Industrial Equipment Limited Approval for discharge into the natural environment other than water (i.e. Air). -10/20/2000

489. EBR Registry Number: "IA00E1659" Type of Posting: "Instrument" Status: "Proposal" Abstract: 1266714 Ontario Limited Approval for a waste disposal site. -10/20/2000

490. EBR Registry Number: "IA00E1658" Type of Posting: "Instrument" Status: "Proposal" Abstract: Diamand Auto Collision Approval for discharge into the natural environment other than water (i.e. Air). -10/20/2000

491. EBR Registry Number: "IA00E1652" Type of Posting: "Instrument" Status: "Proposal" Abstract: Elisha Autobody Repairs Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/18/2000

492. EBR Registry Number: "IA00E1649" Type of Posting: "Instrument" Status: "Proposal" Abstract: S.C. Johnson & Sons Limited Approval for discharge into the natural environment other than water (i.e. Air). -10/18/2000

493. EBR Registry Number: "IA00E1648" Type of Posting: "Instrument" Status: "Proposal" Abstract: Canada Woodtape Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/18/2000

494. EBR Registry Number: "IA00E1647" Type of Posting: "Instrument" Status: "Proposal" Abstract: Imperial Oil / Petroliere Imperiale Approval for discharge into the natural environment other than water (i.e. Air). -10/18/2000

495. EBR Registry Number: "IA00E1643" Type of Posting: "Instrument" Status: "Proposal" Abstract: Unilever Canada Approval for discharge into the natural environment other than water (i.e. Air). -10/18/2000

496. EBR Registry Number: "IA00E1646" Type of Posting: "Instrument" Status: "Proposal" Abstract: Niagara Employment Agency Inc. Approval for a waste disposal site. -10/18/2000

497. EBR Registry Number: "IA00E1645" Type of Posting: "Instrument" Status: "Proposal" Abstract: GKN Sinter Metals - St. Thomas Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -10/18/2000

498. EBR Registry Number: "IA00E1637" Type of Posting: "Instrument" Status: "Proposal" Abstract: Dart Aerospace Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -10/17/2000

499. EBR Registry Number: "IA00E1634" Type of Posting: "Instrument" Status: "Proposal" Abstract: Rohm and Haas Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/17/2000

500. EBR Registry Number: "IA00E1632" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Petro Canada Approval for sewage works. -10/17/2000

501. EBR Registry Number: "IF00E0011" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Township of The North Shore Approval of an Official Plan. -10/16/2000

502. EBR Registry Number: "IA00E1630" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Orangeville Golf Club Permit to take water. -10/16/2000

503. EBR Registry Number: "IA00E1629" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Taiga Forest Products Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/16/2000

504. EBR Registry Number: "IA00E1626" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Toyota Motor Manufacturing Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/16/2000

505. EBR Registry Number: "IA00E1623" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Amherst Quarries (1969) Ltd Permit to take water. -10/13/2000

506. EBR Registry Number: "IA00E1602" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Hamilton Recycling Inc. Approval for a waste disposal site. -10/13/2000

507. EBR Registry Number: "IA00E1625" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1213847 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air). -10/13/2000

508. EBR Registry Number: "IA00E1619" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Windemere Golf & Country Club Permit to take water. -10/13/2000

509. EBR Registry Number: "IA00E1618" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ball Packaging Products Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/13/2000

510. EBR Registry Number: "IA00E1616" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Bayer Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/12/2000

511. EBR Registry Number: "IA00E1611" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Uniboard Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/12/2000

512. EBR Registry Number: "IA00E1612" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Uniboard Canada Inc. Approval of a program preventing, reducing, or controlling discharge. -10/12/2000

513. EBR Registry Number: "IA00E1607" Type of Posting: "Instrument" Status: "Proposal"

Abstract: Petro Canada Approval for sewage works. -10/11/2000

514. EBR Registry Number: "IA00E1605" Type of Posting: "Instrument" Status: "Proposal"
Abstract: NHB Industries Limited Approval for discharge into the natural environment other than water (i.e. Air). -10/11/2000

515. EBR Registry Number: "IA00E1600" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Super Economy Auto Body Approval for discharge into the natural environment other than water (i.e. Air). -10/11/2000

516. EBR Registry Number: "IA00E1599" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Saskatchewan Wheat Pool Approval for discharge into the natural environment other than water (i.e. Air). -10/11/2000

517. EBR Registry Number: "IA00E1597" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Arcese Brothers Furniture Limited Approval for discharge into the natural environment other than water (i.e. Air). -10/10/2000

518. EBR Registry Number: "IA00E1587" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Tembec Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air). -10/06/2000

519. EBR Registry Number: "IA00E1585" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Lilly Industries Approval for discharge into the natural environment other than water (i.e. Air). -10/06/2000

520. EBR Registry Number: "IF00E0005" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Village of Hastings Approval of an Official Plan. -10/06/2000

521. EBR Registry Number: "IF00E1029" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Township of Campbellford/Seymour Approval of an Official Plan. -10/06/2000

522. EBR Registry Number: "IF00E1030" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Township of Percy Approval of an Official Plan. -10/04/2000

523. EBR Registry Number: "IF00E1027" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Township of Brighton Approval of an Official Plan Amendment. -10/04/2000

524. EBR Registry Number: "IA00E1582" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Regent Armand Joseph Amyotte & Anita M. Amyotte Approval for a waste disposal site. -10/04/2000

525. EBR Registry Number: "IA00E1580" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Med Tech Environmental Limited Approval for a waste disposal site. -10/04/2000

526. EBR Registry Number: "IA00E1579" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Stoneridge Travel Centre Inc. Permit to take water. -10/04/2000

527. **EBR Registry Number: "IA00E1576" Type of Posting: "Instrument" Status: "Proposal" Abstract: Union Gas Limited Approval for discharge into the natural environment other than water (i.e. Air).** **-10/04/2000**

528. **EBR Registry Number: "IA00E1583" Type of Posting: "Instrument" Status: "Proposal" Abstract: Tri-County Protein Corp. Approval for sewage works.** **-10/04/2000**

529. **EBR Registry Number: "IF00E1028" Type of Posting: "Instrument" Status: "Proposal" Abstract: The Township of South Frontenac Approval of an Official Plan.** **-10/04/2000**

530. **EBR Registry Number: "IF00E1026" Type of Posting: "Instrument" Status: "Proposal" Abstract: The Township of North Glengarry Approval of an Official Plan.** **-10/04/2000**

531. **EBR Registry Number: "IA00E1567" Type of Posting: "Instrument" Status: "Proposal" Abstract: Tembec Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air).** **-10/02/2000**

532. **EBR Registry Number: "IA00E1564" Type of Posting: "Instrument" Status: "Proposal" Abstract: Tiercon Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air).** **-09/29/2000**

533. **EBR Registry Number: "IA00E1561" Type of Posting: "Instrument" Status: "Proposal" Abstract: Washington Mills Electro Min. Corp. Approval of a program preventing, reducing, or controlling discharge.** **-09/28/2000**

534. **EBR Registry Number: "IA00E1552" Type of Posting: "Instrument" Status: "Proposal" Abstract: Marinelli Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air).** **-09/27/2000**

535. **EBR Registry Number: "IA00E1549" Type of Posting: "Instrument" Status: "Proposal" Abstract: Jo's Auto Centre Approval for discharge into the natural environment other than water (i.e. Air).** **-09/26/2000**

536. **EBR Registry Number: "IA00E1548" Type of Posting: "Instrument" Status: "Proposal" Abstract: Shell Canada Limited Approval for sewage works.** **-09/26/2000**

537. **EBR Registry Number: "IA00E1546" Type of Posting: "Instrument" Status: "Proposal" Abstract: Abitibi-Consolidated Inc. Approval for a waste disposal site.** **-09/26/2000**

538. **EBR Registry Number: "IA00E1545" Type of Posting: "Instrument" Status: "Proposal" Abstract: Viele Brothers Auto Body Ltd. Approval for discharge into the natural environment other than water (i.e. Air).** **-09/26/2000**

539. **EBR Registry Number: "IA00E1543" Type of Posting: "Instrument" Status: "Proposal" Abstract: Nortel Networks Corporation Approval for discharge into the natural environment other than water (i.e. Air).** **-09/26/2000**

540. EBR Registry Number: "IA00E1540" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Lush Queen Street West Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -09/26/2000

541. EBR Registry Number: "IA00E1535" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Shell Canada Products Limited Approval for sewage works. -09/25/2000

542. EBR Registry Number: "IA00E1534" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Long Manufacturing Limited Approval for discharge into the natural environment other than water (i.e. Air). -09/25/2000

543. EBR Registry Number: "IA00E1528" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Kenora Forest Products Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -09/21/2000

544. EBR Registry Number: "IA00E1524" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Uniroyal Chemical Co./Cie Approval for discharge into the natural environment other than water (i.e. Air). -09/20/2000

545. EBR Registry Number: "IA00E1520" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Cablebridge Enterprises Limited Permit to take water. -09/20/2000

546. EBR Registry Number: "IA00E1517" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Fieldgate Developments Permit to take water. -09/20/2000

547. EBR Registry Number: "IA00E1516" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Caledon Ski Club Permit to take water. -09/20/2000

548. EBR Registry Number: "IA00E1515" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Burlington Springs Golf Course Permit to take water. -09/20/2000

549. EBR Registry Number: "IA00E1512" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Pack All Manufacturing Inc. Permit to take water. -09/20/2000

550. EBR Registry Number: "IA00E1501" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Kroma Printing Inks Corporation of Canada Approval for discharge into the natural environment other than water (i.e. Air). -09/18/2000

551. EBR Registry Number: "IA00E1509" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Custom Aluminum Foundry Limited Approval for discharge into the natural environment other than water (i.e. Air). -09/18/2000

552. EBR Registry Number: "IA00E1498" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Harley Farms Ltd. Permit to take water. -09/18/2000

553. EBR Registry Number: "IA00E1499" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Litton Systems Canada Limited Approval for discharge into the natural

environment other than water (i.e. Air). -09/18/2000

554. EBR Registry Number: "IA00E1492" Type of Posting: "Instrument" Status: "Proposal" Abstract: Nestle Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -09/18/2000

555. EBR Registry Number: "IA00E1496" Type of Posting: "Instrument" Status: "Proposal" Abstract: DaimlerChrysler Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -09/18/2000

556. EBR Registry Number: "IA00E1491" Type of Posting: "Instrument" Status: "Proposal" Abstract: Triac Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air). -09/18/2000

557. EBR Registry Number: "IA00E1488" Type of Posting: "Instrument" Status: "Proposal" Abstract: Sequence Controls Inc. Approval for discharge into the natural environment other than water (i.e. Air). -09/14/2000

558. EBR Registry Number: "IA00E1485" Type of Posting: "Instrument" Status: "Proposal" Abstract: Interforest Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -09/14/2000

559. EBR Registry Number: "IA00E1480" Type of Posting: "Instrument" Status: "Proposal" Abstract: Skead Heritage Homes Permit to take water. -09/14/2000

560. EBR Registry Number: "IA00E1476" Type of Posting: "Instrument" Status: "Proposal" Abstract: 3311171 Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -09/13/2000

561. EBR Registry Number: "IA00E1475" Type of Posting: "Instrument" Status: "Proposal" Abstract: Confederation Country Club Permit to take water. -09/13/2000

562. EBR Registry Number: "IA00E1474" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ford Motor Company of Canada Approval for discharge into the natural environment other than water (i.e. Air). -09/13/2000

563. EBR Registry Number: "IA00E1463" Type of Posting: "Instrument" Status: "Proposal" Abstract: A.L. Blair Construction Ltd. Permit to take water. -09/12/2000

564. EBR Registry Number: "IA00E1461" Type of Posting: "Instrument" Status: "Proposal" Abstract: Absopulse Electronics Ltd. Permit to take water. -09/12/2000

565. EBR Registry Number: "IA00E1459" Type of Posting: "Instrument" Status: "Proposal" Abstract: Timber Ridge Golf Course Permit to take water. -09/12/2000

566. EBR Registry Number: "IA00E1456" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ford Motor Company of Canada Approval for discharge into the natural

environment other than water (i.e. Air). -09/11/2000

567. EBR Registry Number: "IA00E1453" Type of Posting: "Instrument" Status: "Proposal" Abstract: W. C. Wood Company Limited Approval for discharge into the natural environment other than water (i.e. Air). -09/11/2000

568. EBR Registry Number: "IA00E1452" Type of Posting: "Instrument" Status: "Proposal" Abstract: Puslinch Lake Conservation Association Permit to take water. -09/11/2000

569. EBR Registry Number: "IA00E1449" Type of Posting: "Instrument" Status: "Proposal" Abstract: Noranda Inc Approval for sewage works. - 9/08/2000

570. EBR Registry Number: "IA00E1446" Type of Posting: "Instrument" Status: "Proposal" Abstract: Canmine Resources Corporation Approval for discharge into the natural environment other than water (i.e. Air). -09/07/2000

571. EBR Registry Number: "IA00E1444" Type of Posting: "Instrument" Status: "Proposal" Abstract: Hard Rock Paving Company Limited Permit to take water. -09/07/2000

572. EBR Registry Number: "IA00E1443" Type of Posting: "Instrument" Status: "Proposal" Abstract: Industry Canada Approval for sewage works -09/07/2000

573. EBR Registry Number: "IA00E1442" Type of Posting: "Instrument" Status: "Proposal" Abstract: Gillette Canada Company Approval for discharge into the natural environment other than water (i.e. Air). -09/07/2000

574. EBR Registry Number: "IA00E1435" Type of Posting: "Instrument" Status: "Proposal" Abstract: One Stop Cabinet Shop Inc. Approval for discharge into the natural environment other than water (i.e. Air). -09/06/2000

575. EBR Registry Number: "IA00E1433" Type of Posting: "Instrument" Status: "Proposal" Abstract: Algoma Steel Inc. Approval for discharge into the natural environment other than water (i.e. Air). -09/06/2000

576. EBR Registry Number: "IA00E1428" Type of Posting: "Instrument" Status: "Proposal" Abstract: Greening Donald Co. Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -09/05/2000

577. EBR Registry Number: "IA00E1426" Type of Posting: "Instrument" Status: "Proposal" Abstract: Sonoco Recycling Approval for a waste disposal site. -09/05/2000

578. EBR Registry Number: "IA00E1423" Type of Posting: "Instrument" Status: "Proposal" Abstract: Waterloo Furniture Components Ltd. Approval for a waste disposal site. -09/01/2000

579. EBR Registry Number: "IA00E1422" Type of Posting: "Instrument" Status: "Proposal" Abstract: Fluorescent Lamp Recyclers Inc Approval for a waste disposal site. -09/01/2000

580. EBR Registry Number: "IA00E1421" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Dow Chemical Canada Incorporated Approval for a waste disposal site. -09/01/2000

581. EBR Registry Number: "IA00E1420" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Dow Chemical Canada Incorporated Approval for a waste disposal site. -09/01/2000

582. EBR Registry Number: "IA00E1418" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Donald Tarini Permit to take water. -08/31/2000

583. EBR Registry Number: "IF00E1019" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The County of Victoria Approval of an Official Plan Amendment. -08/30/2000

584. EBR Registry Number: "IA00E1414" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Luzenac Inc. Approval for discharge into the natural environment other than water (i.e. Air). -08/30/2000

585. EBR Registry Number: "IA00E1413" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Cargill Limited Approval for discharge into the natural environment other than water (i.e. Air). -08/30/2000

586. EBR Registry Number: "IA00E1411" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ecolab Limited Approval for discharge into the natural environment other than water (i.e. Air). -08/30/2000

587. EBR Registry Number: "IA00E1409" Type of Posting: "Instrument" Status: "Proposal"
Abstract: S.C. Johnson & Sons Limited Approval for discharge into the natural environment other than water (i.e. Air). -08/29/2000

588. EBR Registry Number: "IA00E1397" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Grant Electric Limited Approval for discharge into the natural environment other than water (i.e. Air). -08/25/2000

589. EBR Registry Number: "IA00E1396" Type of Posting: "Instrument" Status: "Proposal"
Abstract: International Truck and Engine Corporation Canada Approval for discharge into the natural environment other than water (i.e. Air). -08/25/2000

590. EBR Registry Number: "IA00E1393" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Sarnia Golf & Curling Club Permit to take water. -08/25/2000

591. EBR Registry Number: "IA00E1392" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Decoma International Inc. Approval for discharge into the natural environment other than water (i.e. Air). -08/25/2000

592. EBR Registry Number: "IA00E1385" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 911230 Ontario Incorporated Approval for discharge into the natural environment other than water (i.e. Air). -08/24/2000

593. EBR Registry Number: "IA9E0875" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Crystal Quarries Ltd Permit to take water. -08/23/2000

594. EBR Registry Number: "IA00E1382" Type of Posting: "Instrument" Status: "Proposal"
Abstract: ABC Group Air Management Systems Inc. Approval for discharge into the natural environment other than water (i.e. Air). -08/23/2000

595. EBR Registry Number: "IA00E1379" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Interforest Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -08/23/2000

596. EBR Registry Number: "IA00E1374" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Centre for Addiction and Mental Health Approval for discharge into the natural environment other than water (i.e. Air). -08/22/2000

597. EBR Registry Number: "IA00E1376" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Parkview Golf Club and Brookside Golf Club Permit to take water. -08/22/2000

598. EBR Registry Number: "IA00E1370" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Barrick Gold Corporation Approval for discharge into the natural environment other than water (i.e. Air). -08/22/2000

599. EBR Registry Number: "IA00E1372" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Trench Limited Approval for discharge into the natural environment other than water (i.e. Air). -08/22/2000

600. EBR Registry Number: "IA00E1368" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Mor-Pac Limited Approval for discharge into the natural environment other than water (i.e. Air). -08/21/2000

601. EBR Registry Number: "IA00E1365" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Buchanan Northern Hardwoods Inc. Approval for discharge into the natural environment other than water (i.e. Air). -08/21/2000

602. EBR Registry Number: "IA00E1361" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Standard Products (Canada) Limited Approval for discharge into the natural environment other than water (i.e. Air). -08/18/2000

603. EBR Registry Number: "IA00E1359" Type of Posting: "Instrument" Status: "Proposal"
Abstract: North Halton Golf and Country Club Permit to take water. -08/18/2000

604. EBR Registry Number: "IA00E1356" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ford Motor Company of Canada Approval for discharge into the natural environment other than water (i.e. Air). -08/18/2000

605. EBR Registry Number: "IA00E1352" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Deloro Stellite Inc. Approval for discharge into the natural environment

other than water (i.e. Air). -08/17/2000

606. EBR Registry Number: "IA00E1351" Type of Posting: "Instrument" Status: "Proposal" Abstract: Honda of Canada Mfg. Approval for discharge into the natural environment other than water (i.e. Air). -08/17/2000

607. EBR Registry Number: "IA00E1348" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ford Motor Company of Canada Limited Approval for discharge into the natural environment other than water (i.e. Air). -08/17/2000

608. EBR Registry Number: "IA00E1347" Type of Posting: "Instrument" Status: "Proposal" Abstract: Blue Cicrle Cement, St. Marys Plant Approval for discharge into the natural environment other than water (i.e. Air). -08/17/2000

609. EBR Registry Number: "IA00E1345" Type of Posting: "Instrument" Status: "Proposal" Abstract: Rainbow Concrete Industries Ltd. Permit to take water. -08/16/2000

610. EBR Registry Number: "IA00E1342" Type of Posting: "Instrument" Status: "Proposal" Abstract: Hershey Foods Corporation Approval for discharge into the natural environment other than water (i.e. Air). -08/15/2000

611. EBR Registry Number: "IA00E1341" Type of Posting: "Instrument" Status: "Proposal" Abstract: Cameco Corporation Approval for discharge into the natural environment other than water (i.e. Air). -08/15/2000

612. EBR Registry Number: "IA00E1338" Type of Posting: "Instrument" Status: "Proposal" Abstract: Woodbridge Foam Corporation Approval for discharge into the natural environment other than water (i.e. Air). -08/14/2000

613. EBR Registry Number: "IA00E1335" Type of Posting: "Instrument" Status: "Proposal" Abstract: Teff Line Approval for discharge into the natural environment other than water (i.e. Air). -08/14/2000

614. EBR Registry Number: "IT00E0062" Type of Posting: "Instrument" Status: "Proposal" Abstract: Big K Fuels Inc. Application for variances from the Gasoline Handling Act. -08/10/2000

615. EBR Registry Number: "IA00E1320" Type of Posting: "Instrument" Status: "Proposal" Abstract: Kaneff Properties Ltd. Permit to take water. -08/10/2000

616. EBR Registry Number: "IA00E1311" Type of Posting: "Instrument" Status: "Proposal" Abstract: AGP, Inc. Approval for discharge into the natural environment other than water (i.e. Air). -08/09/2000

617. EBR Registry Number: "IA00E1309" Type of Posting: "Instrument" Status: "Proposal" Abstract: Woodbridge Collision Limited Approval for discharge into the natural environment other than water (i.e. Air). -08/08/2000

618. EBR Registry Number: "IA00E1308" Type of Posting: "Instrument" Status: "Proposal"
Abstract: PPG Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -08/08/2000

619. EBR Registry Number: "IA00E1306" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Domtar Inc. Approval for discharge into the natural environment other than water (i.e. Air). -08/08/2000

620. EBR Registry Number: "IA00E1305" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Robins Holdings Inc. Permit to take water. -08/08/2000

621. EBR Registry Number: "IA00E1295" Type of Posting: "Instrument" Status: "Proposal"
Abstract: RTS Plastics Inc. Approval for discharge into the natural environment other than water (i.e. Air). -08/04/2000

622. EBR Registry Number: "IA00E1293" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Casco Inc. Approval for discharge into the natural environment other than water (i.e. Air). -08/03/2000

623. EBR Registry Number: "IA00E1292" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Terry Brouse Permit to take water. -08/03/2000

624. EBR Registry Number: "IA00E1288" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1376767 Ontario Incorporated Approval for discharge into the natural environment other than water (i.e. Air). -08/03/2000

625. EBR Registry Number: "IA00E1287" Type of Posting: "Instrument" Status: "Proposal"
Abstract: L C C #9 (Huntingdon Green) Permit to take water. -08/03/2000

626. EBR Registry Number: "IA00E1285" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Baskin Robbins Canada - Brian Laine Permit to take water. -08/03/2000

627. EBR Registry Number: "IA00E1272" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Nobleton Lakes Golf Club Permit to take water. -08/03/2000

628. EBR Registry Number: "IA00E1283" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Blau AutoTec Approval for discharge into the natural environment other than water (i.e. Air). -08/02/2000

629. EBR Registry Number: "IA00E1278" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Summerheights Golf Links Permit to take water. -08/01/2000

630. EBR Registry Number: "IA00E1270" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Chris Tranberg & Son ltd. Permit to take water. -07/31/2000

631. EBR Registry Number: "IA00E1266" Type of Posting: "Instrument" Status: "Proposal"
Abstract: F & S Toth Permit to take water. -07/31/2000

632. EBR Registry Number: "IA00E1269" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Georgian Peaks Club Permit to take water. -07/31/2000

633. EBR Registry Number: "IA00E1268" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Lafarge Canada Inc. Permit to take water. -07/31/2000

634. EBR Registry Number: "IA00E1260" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Honeywell ASCa. Inc. Approval for discharge into the natural environment other than water (i.e. Air). -07/28/2000

635. EBR Registry Number: "IA00E1258" Type of Posting: "Instrument" Status: "Proposal"
Abstract: K.R. Thompson Limited Approval for a waste disposal site. -07/28/2000

636. EBR Registry Number: "IA00E1257" Type of Posting: "Instrument" Status: "Proposal"
Abstract: M. C. Colonial Cabinets and Millwork Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -07/28/2000

637. EBR Registry Number: "IA00E1256" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Lowe-Martin Company Inc. Approval for discharge into the natural environment other than water (i.e. Air). -07/28/2000

638. EBR Registry Number: "IA00E1255" Type of Posting: "Instrument" Status: "Proposal"
Abstract: DuPont of Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -07/28/2000

639. EBR Registry Number: "IA00E1254" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Placer Dome (CLA) Ltd. Permit to take water. -07/28/2000

640. EBR Registry Number: "IA00E1250" Type of Posting: "Instrument" Status: "Proposal"
Abstract: ICI Canada Inc. Approval for sewage works. -07/27/2000

641. EBR Registry Number: "IA00E1248" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Placer dome Canada Ltd. Permit to take water. -07/27/2000

642. EBR Registry Number: "IA00E1245" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Nortel Networks Corporation Approval for discharge into the natural environment other than water (i.e. Air). -07/27/2000

643. EBR Registry Number: "IA00E1244" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Monsanto Canada Approval for discharge into the natural environment other than water (i.e. Air). -07/27/2000

644. EBR Registry Number: "IA00E1241" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Normand Peladeau, Camping Peladeau Permit to take water. -07/27/2000

645. EBR Registry Number: "IA00E1231" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Domtar Inc. Approval for discharge into the natural environment other

than water (i.e. Air). -07/26/2000

646. EBR Registry Number: "IA00E1238" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ford Motor Company of Canada Ltd. Essex Manufacturing Approval for discharge into the natural environment other than water (i.e. Air). -07/26/2000

647. EBR Registry Number: "IA00E1237" Type of Posting: "Instrument" Status: "Proposal" Abstract: James Sylvestre Developments Ltd. Approval for sewage works. -07/26/2000

648. EBR Registry Number: "IA00E1236" Type of Posting: "Instrument" Status: "Proposal" Abstract: McNeil Consumer Healthcare Approval for discharge into the natural environment other than water (i.e. Air). -07/26/2000

649. EBR Registry Number: "IA00E1235" Type of Posting: "Instrument" Status: "Proposal" Abstract: KOSA Canada Company Approval for sewage works. -07/26/2000

650. EBR Registry Number: "IA00E1223" Type of Posting: "Instrument" Status: "Proposal" Abstract: Thunder Bay Packaging Inc. Approval for discharge into the natural environment other than water (i.e. Air). -07/26/2000

651. EBR Registry Number: "IA00E1221" Type of Posting: "Instrument" Status: "Proposal" Abstract: Epic Woodworks Incorporated Approval for discharge into the natural environment other than water (i.e. Air). -07/26/2000

652. EBR Registry Number: "IA00E1219" Type of Posting: "Instrument" Status: "Proposal" Abstract: Bay Mills Limited Approval for discharge into the natural environment other than water (i.e. Air). -07/26/2000

653. EBR Registry Number: "IA00E0236" Type of Posting: "Instrument" Status: "Proposal" Abstract: Orion Bus Industries Limited Approval for discharge into the natural environment other than water (i.e. Air). -07/26/2000

654. EBR Registry Number: "IA00E1217" Type of Posting: "Instrument" Status: "Proposal" Abstract: Quebecor World Concord Approval for discharge into the natural environment other than water (i.e. Air). -07/25/2000

655. EBR Registry Number: "IA00E1212" Type of Posting: "Instrument" Status: "Proposal" Abstract: 1245562 Ontario Inc. Approval for discharge into the natural environment other than water (i.e. Air). -07/25/2000

656. EBR Registry Number: "IT00E0059" Type of Posting: "Instrument" Status: "Proposal" Abstract: 1254323 Ontario Inc. (Westside Service Station) Application for variances from the Gasoline Handling Act. -07/24/2000

657. EBR Registry Number: "IA00E1203" Type of Posting: "Instrument" Status: "Proposal" Abstract: 3M Canada Company Approval for discharge into the natural environment other than water (i.e. Air). -07/24/2000

658. EBR Registry Number: "IA00E1202" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Crosswinds Golf and Country Club Permit to take water. -07/24/2000

659. EBR Registry Number: "IA00E1200" Type of Posting: "Instrument" Status: "Proposal"
Abstract: CedarBrae Golf and Country Club Permit to take water. -07/24/2000

660. EBR Registry Number: "IA00E1208" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Rick Beattie Permit to take water. -07/24/2000

661. EBR Registry Number: "IA00E1205" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Cameco Corporation Approval for discharge into the natural environment other than water (i.e. Air). -07/24/2000

662. EBR Registry Number: "IA00E1206" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Prescott Finishing Inc. Approval for discharge into the natural environment other than water (i.e. Air). -07/24/2000

663. EBR Registry Number: "IA00E1199" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Hamilton Technical Ceramics Limited Approval for discharge into the natural environment other than water (i.e. Air). -07/21/2000

664. EBR Registry Number: "IA00E1193" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Armtech Limited Approval for discharge into the natural environment other than water (i.e. Air). -07/20/2000

665. EBR Registry Number: "IA00E1077" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Eco Waste Solutions Inc. Approval for discharge into the natural environment other than water (i.e. Air). -07/20/2000

666. EBR Registry Number: "IA00E1187" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Brian Magee in Trust for Black Bear Ridge Inc. Permit to take water. -07/19/2000

667. EBR Registry Number: "IA00E1185" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Norbord Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air). -07/19/2000

668. EBR Registry Number: "IA00E1188" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Labatt Brewing Company Limited Approval for discharge into the natural environment other than water (i.e. Air). -07/19/2000

669. EBR Registry Number: "IA00E1182" Type of Posting: "Instrument" Status: "Proposal"
Abstract: R.J. Simpson Manufacturing Company (Canada) Limited Approval for discharge into the natural environment other than water (i.e. Air). -07/18/2000

670. EBR Registry Number: "IA00E1178" Type of Posting: "Instrument" Status: "Proposal"
Abstract: James Richardson International Limited Approval for discharge into

the natural environment other than water (i.e. Air). -07/17/2000

671. EBR Registry Number: "IA00E1176" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Imperial Oil Approval for discharge into the natural environment other than water (i.e. Air). -07/17/2000

672. EBR Registry Number: "IA00E1174" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Techform Products Limited Approval for discharge into the natural environment other than water (i.e. Air). -07/17/2000

673. EBR Registry Number: "IA00E1100" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Nu-Gro Corporation Approval for a waste disposal site. -07/17/2000

674. EBR Registry Number: "IA00E1172" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Techform Products Limited Approval for discharge into the natural environment other than water (i.e. Air). -07/17/2000

675. EBR Registry Number: "IA00E1171" Type of Posting: "Instrument" Status: "Proposal"
Abstract: BeachviLime Limited Approval for discharge into the natural environment other than water (i.e. Air). -07/17/2000

676. EBR Registry Number: "IA00E1167" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Vitrocom (Canada) Inc. Approval for discharge into the natural environment other than water (i.e. Air). -07/14/2000

677. EBR Registry Number: "IA00E1160" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Grenville Castings Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -07/14/2000

678. EBR Registry Number: "IA00E1159" Type of Posting: "Instrument" Status: "Proposal"
Abstract: TransAlta Energy Corporation Approval for discharge into the natural environment other than water (i.e. Air). -07/14/2000

679. EBR Registry Number: "IA00E1155" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Algoma Seamless Tublars Inc. Approval for discharge into the natural environment other than water (i.e. Air). -07/13/2000

680. EBR Registry Number: "IA00E1148" Type of Posting: "Instrument" Status: "Proposal"
Abstract: ClubLink Capital Corporation Permit to take water. -07/12/2000

681. EBR Registry Number: "IA00E1146" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ultramar Ltd. Approval for sewage works. -07/12/2000

682. EBR Registry Number: "IA00E1143" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Deer Creek Golf and Country Estates Permit to take water. -07/12/2000

683. EBR Registry Number: "IA00E1142" Type of Posting: "Instrument" Status: "Proposal"

Abstract: Lambton Golf and Country Club Permit to take water. -07/12/2000

684. EBR Registry Number: "IA00E1145" Type of Posting: "Instrument" Status: "Proposal" Abstract: Tamming Foods Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -07/12/2000

685. EBR Registry Number: "ID00E1008" Type of Posting: "Instrument" Status: "Proposal" Abstract: Wallbridge Mining Company Limited Unpatented mining claim, occupation licence, lease or patent and when terms apply to environmental protection. -07/11/2000

686. EBR Registry Number: "IA00E1138" Type of Posting: "Instrument" Status: "Proposal" Abstract: The W.C. Edwards Co., Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -07/11/2000

687. EBR Registry Number: "IA00E1130" Type of Posting: "Instrument" Status: "Proposal" Abstract: Quebecor World Aurora Approval for discharge into the natural environment other than water (i.e. Air). -07/11/2000

687. EBR Registry Number: "IA00E1129" Type of Posting: "Instrument" Status: "Proposal" Abstract: Novopharm Limited Approval for discharge into the natural environment other than water (i.e. Air). -07/10/2000

688. EBR Registry Number: "IA00E1124" Type of Posting: "Instrument" Status: "Proposal" Abstract: Nexcycle Industries Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -07/10/2000

689. EBR Registry Number: "IA00E1122" Type of Posting: "Instrument" Status: "Proposal" Abstract: Great West Timber Limited Approval for discharge into the natural environment other than water (i.e. Air). -07/10/2000

690. EBR Registry Number: "IA00E1121" Type of Posting: "Instrument" Status: "Proposal" Abstract: Mold-Masters Limited Approval for discharge into the natural environment other than water (i.e. Air). -07/10/2000

691. EBR Registry Number: "IA00E1112" Type of Posting: "Instrument" Status: "Proposal" Abstract: Shell Canada Products Ltd. Order for remedial work. -07/07/2000

692. EBR Registry Number: "IA00E1119" Type of Posting: "Instrument" Status: "Proposal" Abstract: Cargill Limited Approval for discharge into the natural environment other than water (i.e. Air). -07/07/2000

693. EBR Registry Number: "IA00E1118" Type of Posting: "Instrument" Status: "Proposal" Abstract: Wire Rope Industries Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -07/07/2000

694. EBR Registry Number: "IA00E1111" Type of Posting: "Instrument" Status: "Proposal" Abstract: Canadian Timken Limited Approval for discharge into the natural environment

other than water (i.e. Air). -07/06/2000

695. EBR Registry Number: "IA00E1103" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Dosol Galva Inc. Approval for discharge into the natural environment other than water (i.e. Air). -07/06/2000

696. EBR Registry Number: "IA00E1101" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Hamilton Bio Conversion Inc. Approval for a waste disposal site. -07/05/2000
697. EBR Registry Number: "IF00E2022" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The City of Dryden Approval of an Official Plan. -07/05/2000

698. EBR Registry Number: "IA00E1098" Type of Posting: "Instrument" Status: "Proposal"
Abstract: ConCast Pipe Limited Permit to take water. -07/05/2000

699. EBR Registry Number: "IA00E1096" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Mushroom Producers' Co-Operative Inc. Permit to take water. -07/05/2000

700. EBR Registry Number: "IA00E1084" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Dupont Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -06/30/2000

701. EBR Registry Number: "IA00E1082" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Devtek Electronic Packaging System Approval for discharge into the natural environment other than water (i.e. Air). -06/30/2000

702. EBR Registry Number: "IA00E0274" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Spar Aerospace Limited Approval for discharge into the natural environment other than water (i.e. Air). -06/30/2000

703. EBR Registry Number: "IA00E1081" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 437010 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air). -06/30/2000

704. EBR Registry Number: "IA00E1075" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Eco Waste Solutions Inc. Approval for a waste disposal site. -06/29/2000

705. EBR Registry Number: "IA00E1074" Type of Posting: "Instrument" Status: "Proposal"
Abstract: BFI Construction Group Inc. Approval for discharge into the natural environment other than water (i.e. Air). -06/29/2000

706. EBR Registry Number: "IA00E1064" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Aventis Pasteur Limited Approval for discharge into the natural environment other than water (i.e. Air). -06/27/2000

707. EBR Registry Number: "IA00E1062" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Cambridge Garden Centre and Landscaping Approval for discharge into the natural environment other than water (i.e. Air). -06/27/2000

708. EBR Registry Number: "IA00E1058" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Petro Canada Approval for sewage works. -06/26/2000

709. EBR Registry Number: "IA00E1056" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Barzelle Designs Inc. Approval for discharge into the natural environment other than water (i.e. Air). -06/26/2000

710. EBR Registry Number: "IA00E1059" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Solvay Automotive Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -06/26/2000

711. EBR Registry Number: "IA00E1053" Type of Posting: "Instrument" Status: "Proposal"
Abstract: SCI Brockville Corp. Approval for discharge into the natural environment other than water (i.e. Air). -06/23/2000

712. EBR Registry Number: "IA00E1051" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Dave's Scrap Iron & Metal Inc. Approval for a waste disposal site. -06/23/2000

713. EBR Registry Number: "IF00E1012" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The County of Hastings Approval of an Official Plan. -06/22/2000

714. EBR Registry Number: "IA00E1013" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Arlen Scrap Metal Inc. Approval for a waste disposal site. -06/22/2000

715. EBR Registry Number: "IA00E1035" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 859587 Ontario Limited Approval for discharge into the natural environment other than water (i.e. Air). -06/21/2000

716. EBR Registry Number: "IA00E1032" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Lafarge Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -06/21/2000

717. EBR Registry Number: "IA00E1029" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Richard E. Jones Approval for discharge into the natural environment other than water (i.e. Air). -06/21/2000

718. EBR Registry Number: "IA00E1028" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Nordic Furniture Industries Approval for discharge into the natural environment other than water (i.e. Air). -06/20/2000

719. EBR Registry Number: "IA00E1026" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Lafarge Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -06/20/2000

720. EBR Registry Number: "IA00E1014" Type of Posting: "Instrument" Status: "Proposal"
Abstract: ABC Group Interior Systems (Division of LCF Manufacturing Limited Approval for discharge into the natural environment other than water (i.e. Air). -06/16/2000

721. EBR Registry Number: "IA00E1007" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Shaw Industries Limited Approval for discharge into the natural environment
other than water (i.e. Air). -06/16/2000

722. EBR Registry Number: "IA00E1001" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Goodyear Canada Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -06/15/2000

723. EBR Registry Number: "IA00E1000" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Crestwood Golf Club Permit to take water. -06/15/2000
724. EBR Registry Number: "IA00E0985" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Tembec Industries Inc. Approval for a waste disposal site. -06/14/2000

725. EBR Registry Number: "IA00E0983" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Trafalgar Golf and Country Club Permit to take water. -06/13/2000

726. EBR Registry Number: "IA00E0982" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ford Motor Company of Canada Ltd. Approval for discharge into
the natural environment other than water (i.e. Air). -06/13/2000

727. EBR Registry Number: "IA00E0980" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Samuel Manu-Tech Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -06/13/2000

728. EBR Registry Number: "IA00E0979" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Canadian Waste Services Inc. Approval for a waste disposal site. -06/13/2000

729. EBR Registry Number: "IA00E0977" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Seal-On Paving Ltd. Approval for discharge into the natural environment
other than water (i.e. Air). -06/12/2000

730. EBR Registry Number: "IA00E0974" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Apotex Inc. Approval for discharge into the natural environment other
than water (i.e. Air). -06/12/2000

731. EBR Registry Number: "IA00E0971" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Prism Printed Circuits Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -06/12/2000

732. EBR Registry Number: "IA00E0966" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Enbridge Consumers Gas Approval for discharge into the natural environment
other than water (i.e. Air). -06/09/2000

733. EBR Registry Number: "IA00E0965" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Collins & Aikman Products Co. Approval for discharge into the natural
environment other than water (i.e. Air). -06/09/2000

734. EBR Registry Number: "IA00E0962" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Canadian Waste Services Inc. Approval for a waste disposal site. -06/08/2000

735. EBR Registry Number: "IA00E0961" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Weyerhaeuser Company Limited Approval for a waste disposal site. -06/08/2000

736. EBR Registry Number: "IA00E0960" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Fleet Industries Limited Approval for discharge into the natural environment
other than water (i.e. Air). -06/08/2000

737. EBR Registry Number: "IA00E0957" Type of Posting: "Instrument" Status: "Proposal"
Abstract: BASF Canada Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -06/07/2000

738. EBR Registry Number: "IA00E0956" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Heckett MultiServ Canada Approval for discharge into the natural environment
other than water (i.e. Air). -06/07/2000

739. EBR Registry Number: "IA00E0935" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Drain-All Ltd. Approval for a waste disposal site. -06/07/2000

740. EBR Registry Number: "IA00E0955" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1049585 Ontario Inc. Approval for a waste disposal site. -06/07/2000

741. EBR Registry Number: "IA00E0953" Type of Posting: "Instrument" Status: "Proposal"
Abstract: M. D. Poultry Meats Inc. Approval for discharge into the natural environment
other than water (i.e. Air). -06/06/2000

742. EBR Registry Number: "IA00E0950" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Crooked Links Golf Course Permit to take water. -06/06/2000

743. EBR Registry Number: "IA00E0941" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Bay Mills Limited Approval for discharge into the natural environment
other than water (i.e. Air). -06/02/2000

744. EBR Registry Number: "IA00E0795" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Starcan Corporation Approval for discharge into the natural environment
other than water (i.e. Air). -05/31/2000

745. EBR Registry Number: "IA00E0931" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Cornwall Gravel Company Ltd. Permit to take water. -05/31/2000

746. EBR Registry Number: "IA00E0924" Type of Posting: "Instrument" Status: "Proposal"
Abstract: 1412062 Ontario Limited Approval for discharge into the natural environment
other than water (i.e. Air). -05/31/2000

747. EBR Registry Number: "IA00E0918" Type of Posting: "Instrument" Status: "Proposal"

Abstract: Grenhall Chemicals Limited Approval for discharge into the natural environment other than water (i.e. Air). -05/30/2000

748. EBR Registry Number: "IA00E0917" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Casco Inc. Permit to take water. -05/30/2000

749. EBR Registry Number: "IA00E0913" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Timber Ridge Golf Course Permit to take water. -05/30/2000

750. EBR Registry Number: "IA00E0910" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Safety-Kleen Canada Inc. Approval for a waste disposal site. -05/30/2000

751. EBR Registry Number: "IA00E0903" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Gregory D'Atri-Guiran Permit to take water. -05/26/2000
752. EBR Registry Number: "IA00E0897" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Douglas LeBlanc Services Approval for sewage works. -05/25/2000

753. EBR Registry Number: "IA00E0894" Type of Posting: "Instrument" Status: "Proposal"
Abstract: BICC General Pyrotenax Cables Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -05/24/2000

754. EBR Registry Number: "IA00E0887" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Enviro Tire Technologies Ltd. Approval for a waste disposal site. -05/24/2000

755. EBR Registry Number: "IA00E0881" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Stanjikoming First Nation Permit to take water. -05/23/2000

756. EBR Registry Number: "IA00E0878" Type of Posting: "Instrument" Status: "Proposal"
Abstract: The Niagara Artcraft Woodwork Company Limited Approval for discharge into the natural environment other than water (i.e. Air). -05/23/2000

757. EBR Registry Number: "IA00E0877" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Grantham Shopping Plaza Limited Approval for discharge into the natural environment other than water (i.e. Air). -05/23/2000

758. EBR Registry Number: "IA00E0876" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Satisfied Brake Products Inc. Approval for discharge into the natural environment other than water (i.e. Air). -05/23/2000

759. EBR Registry Number: "IA00E0875" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Sithe Energies Canadian Development Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -05/23/2000

760. EBR Registry Number: "IA00E0873" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Edwards Approval for discharge into the natural environment other than water (i.e. Air). -05/19/2000

761. EBR Registry Number: "IA00E0869" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ray Drisdelle Permit to take water. -05/19/2000

762. EBR Registry Number: "IA00E0867" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Connell Industries Canada Company Approval for discharge into the
natural environment other than water (i.e. Air). -05/19/2000

763. EBR Registry Number: "IA00E0865" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Greavette Spring Water Limited Permit to take water. -05/19/2000

764. EBR Registry Number: "IA00E0862" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Sawmill Golf Ltd. Permit to take water. -05/18/2000

765. EBR Registry Number: "IA00E0859" Type of Posting: "Instrument" Status: "Proposal"
Abstract: L & V Poultry Processing Ltd. Permit to take water. -05/18/2000

766. EBR Registry Number: "IA00E0853" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Credit Valley Conservation Authority Permit to take water. -05/18/2000

767. EBR Registry Number: "IA00E0844" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Arc - Accident Repair Centre Ltd. Approval for discharge into the natural
environment other than water (i.e. Air). -05/17/2000

768. EBR Registry Number: "IA00E0843" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Wallenstein Feed And Supply Limited Approval for discharge into the
natural environment other than water (i.e. Air). -05/17/2000

769. EBR Registry Number: "IA00E0837" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Pheasant Golf Inc. Permit to take water. -05/16/2000

770. EBR Registry Number: "IA00E0826" Type of Posting: "Instrument" Status: "Proposal"
Abstract: C.D.R. Young's Aggregates Inc. Approval for discharge into the natural
environment other than water (i.e. Air). -05/15/2000

771. EBR Registry Number: "IA00E0824" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Ventra Group Inc. Approval for discharge into the natural environment other
than water (i.e. Air). -05/12/2000

772. EBR Registry Number: "IA00E0822" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Good Humor-Breyers, Division of Unilever Canada Approval for discharge
into the natural environment other than water (i.e. Air). -05/12/2000

773. EBR Registry Number: "IA00E0820" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Puslinch Lake Conservation Association Permit to take water. -05/12/2000

774. EBR Registry Number: "IA00E0819" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Bronte Creek Developments Inc. Permit to take water. -05/11/2000

775. EBR Registry Number: "IA00E0818" Type of Posting: "Instrument" Status: "Proposal"
Abstract: William Lane Approval for a waste disposal site. -05/11/2000

776. EBR Registry Number: "IF00E3040" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Beauty Bay (Kenora) Ltd.- Allan Roulston A proposal for provisional consent (no Official Plan in Place). -05/11/2000

777. EBR Registry Number: "IA00E0816" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Owens-Corning Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -05/11/2000

778. EBR Registry Number: "IF00E3038" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Beauty Bay (Kenora) Ltd.- Allan Roulston A proposal for provisional consent (no Official Plan in Place). -05/10/2000

779. EBR Registry Number: "IF00E3039" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Lorne and Patricia Redden. A proposal for provisional consent (no Official Plan in Place). -05/10/2000

780. EBR Registry Number: "IA00E0802" Type of Posting: "Instrument" Status: "Proposal"
Abstract: GenCorp Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -05/10/2000

781. EBR Registry Number: "IA00E0803" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Nelson Steel, Division of Samuel Manu-Tech Inc. Approval for sewage works. -05/10/2000

782. EBR Registry Number: "IA00E0701" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Gheran Maintenance Ltd. Approval for a waste disposal site. -05/08/2000

783. EBR Registry Number: "IA00E0792" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Golder Associates Innovative Applications (GAIA) Inc. Approval for a waste disposal site. -05/05/2000

784. EBR Registry Number: "IA00E0787" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Quantex Technologies Inc. Approval for discharge into the natural environment other than water (i.e. Air). -05/04/2000

785. EBR Registry Number: "IA00E0783" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Petro Sep Membrane Technologies Inc. Approval for discharge into the natural environment other than water (i.e. Air). -05/04/2000

786. EBR Registry Number: "IA00E0780" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Omron Dualtec Automotive Electronics Inc. Approval for discharge into the natural environment other than water (i.e. Air). -05/03/2000

787. EBR Registry Number: "IA00E0775" Type of Posting: "Instrument" Status: "Proposal"

Abstract: Big Trout Lake First Nation (Kitchenuhmaykoosib Inninuwug) Permit to take water. -05/03/2000

788. EBR Registry Number: "IA00E0770" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Blue Circle Cement - St. Marys Permit to take water. -05/02/2000

789. EBR Registry Number: "IA00E0769" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Mark Rich Homes Ltd Permit to take water. -05/02/2000

790. EBR Registry Number: "IA00E0764" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Dow AgroSciences Canada Inc. Listed interim pesticides. -05/02/2000

791. EBR Registry Number: "IA00E0758" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Domtar Inc. Approval for discharge into the natural environment other than water (i.e. Air). -05/02/2000

792. EBR Registry Number: "IA00E0756" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Walcorp Inc. Approval for discharge into the natural environment other than water (i.e. Air). -05/02/2000

793. EBR Registry Number: "IA00E0599" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Phil Dennis Enterprises Limited Approval for discharge into the natural environment other than water (i.e. Air). -05/01/2000

794. EBR Registry Number: "IA00E0751" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Seyler Electric Limited Approval for discharge into the natural environment other than water (i.e. Air). -05/01/2000

795. EBR Registry Number: "IA00E0749" Type of Posting: "Instrument" Status: "Proposal"
Abstract: COM DEV Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -05/01/2000

796. EBR Registry Number: "IA00E0742" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Only Component Corporation Approval for discharge into the natural environment other than water (i.e. Air). -04/28/2000

797. EBR Registry Number: "IA00E0736" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Sandco Automotive Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -04/28/2000

798. EBR Registry Number: "IA00E0734" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Bles Biochemicals Incorporated Approval for discharge into the natural environment other than water (i.e. Air). -04/28/2000

799. EBR Registry Number: "IT00E0038" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Bradshaw Fuels Limited Application for variances from the Gasoline Handling Act. -04/27/2000

800. EBR Registry Number: "IA00E0727" Type of Posting: "Instrument" Status: "Proposal" Abstract: VFT Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/26/2000

801. EBR Registry Number: "IA00E0724" Type of Posting: "Instrument" Status: "Proposal" Abstract: Brake Parts Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/26/2000

802. EBR Registry Number: "IA00E0710" Type of Posting: "Instrument" Status: "Proposal" Abstract: Hunter's Glen Golf Club Permit to take water. -04/20/2000

803. EBR Registry Number: "IA00E0709" Type of Posting: "Instrument" Status: "Proposal" Abstract: Bolton Golf Club (Clublink Corporation) Permit to take water. -04/20/2000

804. EBR Registry Number: "IA00E0708" Type of Posting: "Instrument" Status: "Proposal" Abstract: Comcor Environmental Limited Approval for discharge into the natural environment other than water (i.e. Air). -04/20/2000

805. EBR Registry Number: "IA00E0703" Type of Posting: "Instrument" Status: "Proposal" Abstract: Masco Corporation Approval for discharge into the natural environment other than water (i.e. Air). -04/18/2000

806. EBR Registry Number: "IA00E0696" Type of Posting: "Instrument" Status: "Proposal" Abstract: Boeing Canada Technology Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -04/18/2000

807. EBR Registry Number: "IA00E0700" Type of Posting: "Instrument" Status: "Proposal" Abstract: Lakeside Village Irrigation Project c/o R. Skidmore Permit to take water. -04/18/2000

808. EBR Registry Number: "IA00E0699" Type of Posting: "Instrument" Status: "Proposal" Abstract: Canada Malting Co. Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -04/18/2000

809. EBR Registry Number: "IA00E0693" Type of Posting: "Instrument" Status: "Proposal" Abstract: A. Potvin Construction Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -04/17/2000

810. EBR Registry Number: "IA00E0673" Type of Posting: "Instrument" Status: "Proposal" Abstract: Kraft Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/13/2000

811. EBR Registry Number: "IA00E0671" Type of Posting: "Instrument" Status: "Proposal" Abstract: WA Willowdale Auto Body Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/13/2000

812. EBR Registry Number: "IA00E0668" Type of Posting: "Instrument" Status: "Proposal" Abstract: Tembec Industries Inc. Order prohibiting or regulating discharge of sewage

into water. -04/13/2000

813. EBR Registry Number: "IA00E0661" Type of Posting: "Instrument" Status: "Proposal" Abstract: Amcor Pet Packaging North America Approval for discharge into the natural environment other than water (i.e. Air). -04/12/2000

814. EBR Registry Number: "IA00E0663" Type of Posting: "Instrument" Status: "Proposal" Abstract: GMF Flexo Prepress Inc. Approval for a waste disposal site. -04/12/2000

815. EBR Registry Number: "IF00E2008" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ian Hendry and Keith House. A proposal for provisional consent (no Official Plan in Place). -04/12/2000

816. EBR Registry Number: "IF00E2009" Type of Posting: "Instrument" Status: "Proposal" Abstract: Ian Hendry and Keith House. A proposal for provisional consent (no Official Plan in Place). -04/12/2000

817. EBR Registry Number: "IA00E0651" Type of Posting: "Instrument" Status: "Proposal" Abstract: Bay Mills Limited Approval for discharge into the natural environment other than water (i.e. Air). -04/11/2000

818. EBR Registry Number: "IA00E0646" Type of Posting: "Instrument" Status: "Proposal" Abstract: Dupont Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/11/2000

819. EBR Registry Number: "IA00E0647" Type of Posting: "Instrument" Status: "Proposal" Abstract: PMC Film Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/11/2000

820. EBR Registry Number: "IA00E0644" Type of Posting: "Instrument" Status: "Proposal" Abstract: Baycomp Company Approval for discharge into the natural environment other than water (i.e. Air). -04/11/2000

821. EBR Registry Number: "IA00E0637" Type of Posting: "Instrument" Status: "Proposal" Abstract: Delco Tool & Die Company (1987) Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -04/10/2000

822. EBR Registry Number: "IA00E0636" Type of Posting: "Instrument" Status: "Proposal" Abstract: Kawartha Downs Limited Permit to take water. -04/10/2000

823. EBR Registry Number: "IA00E0634" Type of Posting: "Instrument" Status: "Proposal" Abstract: Lafleche Environment Inc. Approval for a waste disposal site. -04/10/2000

824. EBR Registry Number: "IA00E0633" Type of Posting: "Instrument" Status: "Proposal" Abstract: Amcan Microprecision Die Casting Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/10/2000

825. EBR Registry Number: "IA00E0543" Type of Posting: "Instrument" Status: "Proposal"
Abstract: B & W Heat Treating (1975) Limited Approval for discharge into the natural environment other than water (i.e. Air). -04/10/2000

826. EBR Registry Number: "IA00E0632" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Preston Sand & Gravel Co. Ltd. Approval for discharge into the natural environment other than water (i.e. Air). -04/07/2000

827. EBR Registry Number: "IA00E0631" Type of Posting: "Instrument" Status: "Proposal"
Abstract: B & W Heat Treating (1975) Limited Approval for discharge into the natural environment other than water (i.e. Air). -04/07/2000

828. EBR Registry Number: "IA00E0628" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Goldcorp Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/07/2000

829. EBR Registry Number: "IA00E0640" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Battle Mountain Canada Ltd. Permit to take water. -04/07/2000

830. EBR Registry Number: "IA00E0629" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Battle Mountain Canada Ltd. Permit to take water. -04/07/2000

831. EBR Registry Number: "IF00E1005" Type of Posting: "Instrument" Status: "Proposal"
Abstract: City of Windsor Approval of an Official Plan. -04/06/2000

832. EBR Registry Number: "IA00E0624" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Canadian Parking Equipment Limited Approval for discharge into the natural environment other than water (i.e. Air). -04/06/2000

833. EBR Registry Number: "IA00E0623" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Minto Developments Inc. Approval for sewage works. -04/06/2000

834. EBR Registry Number: "IA00E0622" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Wescast Industries Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/06/2000

835. EBR Registry Number: "IA00E0619" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Falconbridge Limited Permit to take water. -04/06/2000

836. EBR Registry Number: "IA00E0618" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Teck Corona Operating Corp. Permit to take water. -04/06/2000

837. EBR Registry Number: "IA00E0617" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Williams Operating Corporation Permit to take water. -04/06/2000

838. EBR Registry Number: "IA00E0616" Type of Posting: "Instrument" Status: "Proposal"
Abstract: Williams Operating Corporation Permit to take water. -04/06/2000

839. EBR Registry Number: "IA00E0614" Type of Posting: "Instrument" Status: "Proposal" Abstract: Decoma International Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/05/2000

840. EBR Registry Number: "IA00E0608" Type of Posting: "Instrument" Status: "Proposal" Abstract: Lawson Mardon Packing Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/05/2000

841. EBR Registry Number: "IA00E0604" Type of Posting: "Instrument" Status: "Proposal" Abstract: James D. Rumble Permit to take water. -04/04/2000

842. EBR Registry Number: "IA00E0603" Type of Posting: "Instrument" Status: "Proposal" Abstract: Marathon Pulp Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/04/2000

843. EBR Registry Number: "IA00E0602" Type of Posting: "Instrument" Status: "Proposal" Abstract: Marathon Pulp Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/04/2000

844. EBR Registry Number: "IA00E0601" Type of Posting: "Instrument" Status: "Proposal" Abstract: Niagara Bronze Limited Approval for discharge into the natural environment other than water (i.e. Air). -04/04/2000

845. EBR Registry Number: "IA00E0597" Type of Posting: "Instrument" Status: "Proposal" Abstract: Sherwin-Williams Canada Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/04/2000

846. EBR Registry Number: "IA00E0594" Type of Posting: "Instrument" Status: "Proposal" Abstract: Marathon Pulp Inc. Approval for discharge into the natural environment other than water (i.e. Air). -04/04/2000

847. EBR Registry Number: "IF00E3027" Type of Posting: "Instrument" Status: "Proposal" Abstract: The Town of Lakeshore Approval of an Official Plan Amendment. -04/03/2000

848. EBR Registry Number: "IA00E0584" Type of Posting: "Instrument" Status: "Proposal" Abstract: Aquaterra Corporation Permit to take water. -04/03/2000

849. EBR Registry Number: "IA00E0583" Type of Posting: "Instrument" Status: "Proposal" Abstract: Lookout Point Country Club Limited Permit to take water. -04/03/2000

850. EBR Registry Number: "IA00E0579" Type of Posting: "Instrument" Status: "Proposal" Abstract: A.G. Simpson Company Limited Approval for discharge into the natural environment other than water (i.e. Air). -04/03/2000

851. EBR Registry Number: "IA00E0577" Type of Posting: "Instrument" Status: "Proposal" Abstract: Waterlief Management Inc. Permit to take water. -04/03/2000

S9. -

EBR LITIGATION RIGHTS WORKSHOP

EBR Litigation Rights Workshop

On May 25, 2000, the Environmental Commissioner of Ontario (ECO) hosted a workshop to examine the effectiveness of the litigation rights contained in Ontario's *Environmental Bill of Rights (EBR)*. Invitations to attend the workshop and a backgrounder on *EBR* litigation rights were sent to a wide range of stakeholders. Fifty-six participants, representing private companies, ENGOs, labour unions and government ministries, attended the all-day workshop. The workshop was facilitated by LURA Consulting.

The purpose of the workshop was to provide stakeholders with an opportunity to share their experiences with the *EBR's* litigation rights and their insights into the effectiveness of those rights. Presentations were also given by Commissioner Gord Miller and staff from the Environmental Commissioner's office. The ECO was interested in having a number of questions answered through the workshop, such as:

- What experiences to date has the public had in using the *EBR* litigation rights?
- Is the use of the *EBR* litigation rights working as envisioned by the *EBR* Task Force in drafting these rights?
- Are these rights resulting in better environmental decision-making (directly or indirectly)?
- Are there additional measures that could be taken to support the use of these rights?
- Are there unnecessary barriers to using the *EBR* litigation rights?
- Is there a need for better education/public outreach to make people aware of these rights?

Commissioner Miller began the workshop by outlining each right contained in the *EBR* and the extent to which each has been used since it was first proclaimed. The Leave to Appeal right provides citizens in some situations with the right to seek leave to appeal a ministry's decision on certain types of permits, licenses and certificates of approval, and has been used extensively. The Right to Sue for Harm to a Public Resource provides the right to sue someone who is breaking or is about to break a law when this contravention has harmed or will likely harm a public resource, and has been used to a limited extent. The Right to Sue for a Public Nuisance allows someone experiencing direct economic or personal loss because of a public nuisance to sue for damages or other personal remedies, and has been used minimally. The Protection from Employer Reprisal (Whistleblower) Right provides employees who report incidents such as discharges to the environment with protection from employer reprisals, and has not been used formally but is likely acting in a preventative fashion.

Staff Presentations

The presentations given by the staff of the Environmental Commissioner's office began with a look by David McRobert at the contextual background that led to the litigation rights workshop. He explained that the workshop provides the ECO staff with a meaningful method of fulfilling their obligation to review use of the *EBR*, and allows them to meet directly with stakeholders. Mr. McRobert noted that the *EBR* Task Force envisioned these rights as a tool of last resort, with political accountability remaining as the primary means by which residents would hold the government accountable for its environmental obligations. He reflected that this may have contributed to the low usage of the rights compared to initial forecasts of investigation and litigation activities that greatly overestimated their use.

The next presentation was by Karen Beattie on the Leave to Appeal right. She explained that the test for granting Leave has two components. Applicants must demonstrate that the action would lead to significant harm to the environment, and that there is good reason to believe that no reasonable person could have made the decision. Despite this rather demanding test, Ms. Beattie noted that of the applications made in relation to 30 instruments granted by the Ministry of the Environment, four were withdrawn, two were not filed, 16 were denied, and eight were granted. This is a success rate of 33 per cent. She also noted that the ECO has become aware that users believe that the 15-day period for filing applications is extremely tight and could be the reason why some very significant decisions have not been subject to any applications for leave to appeal.

Mr. Paul McCulloch was the next presenter and spoke on two rights. The first was the Right to Sue for Harm to a Public Resource. This has been used only twice since its inception. He reflected that the low rate of use may be due to the high cost and amount of time involved in bringing an action, and that there are three generous defences available to a defendant (that the defendant has exercised due diligence; that the action was authorized through a regulation or instrument; or that the defendant was complying with a regulatory obligation). Mr. McCulloch also noted that this right is more likely to be used once an individual or company has contravened a statute and harm has been caused, rather than to prevent harm. This is due in part to the test to act on this right, which has two preconditions. First, the defendants must have contravened, or be about to imminently contravene, a prescribed environmental statue, regulation or instrument. Second, the plaintiff must file an *EBR* application for investigation and must demonstrate that the government has failed to respond in a timely or reasonable manner. In response to a claim, the court may order a declaration, injunction or restoration plan in response to a claim, but may not award damages.

The second subject of presentation by Mr. McCulloch was the Right to Sue for Public Nuisance. To use this right, an applicant must show that they have suffered some direct economic or personal loss. This right has been used twice in the past (as of the date of the workshop) and both took the form of class action lawsuits, although one has been appealed to the Supreme Court of Canada and could be very significant in terms of public nuisance and class action litigation.

Mr. McRobert completed the presentations with a discussion of the Right to Protection from Employer Reprisals (Whistleblower Right). This provision expanded on the existing whistleblower right that has existed under the Ontario *Environmental Protection Act* since 1983 to apply it to all acts under the *EBR*. While no actions have occurred under the *EBR* process, between 1983 and 2000, there were five instances where the *EPA* whistleblower provisions were exercised. Most of these cases were settled by the Ontario Labour Relations Board. Mr. McRobert suggested that the *EBR's* provisions are probably working in a manner that may not be easily measured, such as lawyers advising corporate clients against exercising reprisals against employees who "blow the whistle," and the adoption of other similar policies within many progressive workplaces due to the protection afforded under the *EBR* and *EPA*.

Looking Back: Five Perspectives on EBR Litigation Rights

Five panelists then provided the group with a recount of their experiences and lessons learned under the *EBR* and their opinions about what has and has not worked well.

Jerry DeMarco from the Sierra Legal Defence Fund (SLDF) was the first speaker. He started out by stating that SLDF prefers to use private prosecutions or judicial reviews rather than the *EBR's* right to sue for harm to a public resource due to several limitations that exist under the *EBR*. These include the difficult tests that must be met to bring an action and to show harm, the expanded "due diligence" defence, the potential for high costs awards, and the lack of damages. He stated that while the *EBR* has some advantages like a lower standard of proof and discovery, SLDF would continue to use private prosecutions until the barriers are removed from the *EBR*.

Doug Hatch from Artemesia Waters Ltd. spoke next regarding his company's application to the Ministry of the Environment for a permit to withdraw water for commercial water bottling. The company carried out technical studies and public consultation, and the permit was granted. Later, an application for leave to appeal the decision was filed but denied on the grounds that the decision was reasonable having regard to the relevant laws and policies. From this experience, he learned that credible evidence on the environmental risk by a qualified expert is crucial.

Laura Nemchin of the Ontario Ministry of the Environment then spoke about procedural and substantive issues relating to applications for leave to appeal that she felt needed to be addressed. Procedurally, she said the overall time lines as too tight, suggested that more guidance for applicants and proponents as to what is expected in applications and responses would be helpful, and proposed an option for oral hearings. Substantively, she sees the litigation rights as opening lines of discussion between the parties, and as an incentive to the government to consider its actions more closely.

Linda Pim from the Federation of Ontario Naturalists spoke about her experience as one of a coalition of groups and individuals who had successfully sought leave to appeal. The application challenged an order concerning the use of Dombind as a dust suppressant on rural roads, on the grounds that it contains significant amounts of dioxin and is toxic to aquatic life. Leave was granted only on the issue of enforcement since the product was manufactured by Domtar but applied by municipalities, and this success gave the applicants leverage to effect an interim settlement with Domtar. Ms. Pim reflected that, while the coalition was better off as a result of the process, they still had to monitor compliance with the terms and perhaps a judicial review could have achieved more. Finally, she stated that legal counsel is necessary to proceed with an application for leave to appeal.

Rick Lindgren of the Canadian Environmental Law Association focused his discussion on the current leave to appeal provisions, stating that while they are useful and have made a difference in some cases, there are many shortcomings. These include the stringent and onerous test applicants must meet to be granted leave, the short time limit available to the Board to make a final decision, the use of affidavits which formalize the process and make it necessary to have legal representation, and the lack of a right for applicants to reply to the responses to their applications from MOE and the proponent.

The panelists then engaged in an informal discussion on various issues raised by the participants. These topics included: the effectiveness of expanded financial incentives to apply to the EBR and promote litigation activities; the effect and use of comments posted in decisions on the Environmental Registry; the formality of the leave to appeal process; the leave to appeal procedure and time allowed to appeal; the difficult test for leave to appeal; how responses to EBR postings are managed and considered; and the effectiveness of the hearing process.

Moving Forward: Improving the Effectiveness of *EBR* Litigation Rights

The participants were divided into four groups to address the various litigation rights. They considered the following questions, and made the following comments and suggestions:
- Is this litigation right resulting in better decision-making? Is it working as intended?
- Are there barriers to the use of this litigation right that limit its effectiveness?
- Are there measures that could help improve the effectiveness of this litigation right?

LEAVE TO APPEAL

EFFECTIVENESS: This right has resulted in better decision-making as decision makers are more careful in their preparation and conscious of their actions, although they may also be less innovative out of concern for appeals. However, the formal *EBR* process has led to less informal consultation with communities. It is unclear if the process is affecting whether approvals are granted.
BARRIERS: These include a lack of funding, onerous evidentiary requirements, the need for legal counsel, a lack of guidance as to the content of applications, difficulty using the Registry and incomplete postings, and the onerous test applicants must meet to be granted leave.
IMPROVEMENTS: The government could use Internet and computer technology more fully, by posting the full text of instruments and underlying reports. There is also a need for better public education, perhaps in the form of a procedural guide created by the ECO and the Environmental Review Tribunal.

RIGHT TO SUE FOR HARM TO A PUBLIC RESOURCE

EFFECTIVENESS: This right is having no effect on environmental decision making. While it is affecting the bureaucracy simply by being in existence, this is not translating into a positive effect on the environment as it is not a practical threat.
BARRIERS: These include high costs; the heavy onus borne by the plaintiffs, who must meet a very strict test to prove their case; the broad defences available to defendants; the narrow definition of "public resource" which limits the application of the right; and low public awareness of the right.

IMPROVEMENTS: To remedy most of the barriers would require legislative amendments, but the ECO could promote the right by: publishing more frequent reports on specific issues and on results of applications for investigations; assisting plaintiffs in preparing their cases; mediating disputes; and appearing more often as a friend of the court in cases being argued.

RIGHT TO SUE FOR PUBLIC NUISANCE

EFFECTIVENESS: There were mixed opinions on this issue, with some participants feeling that this right has been ineffective due to a very low probability that potential sources of nuisance would ever be the subject of an action, and other participants feeling that it has been effective on a preventative level.

BARRIERS: The two main barriers are cost and financial risk to the plaintiff. Little is known about the likelihood of success of such an action, and the funding available through the Office of the Attorney General for disbursements was seen as insufficient and difficult to access. There is also the fear that judges hearing these cases may see the right as challenging a longstanding common law tradition and be reluctant to use the provisions.

IMPROVEMENTS: Measures such as improved funding and further education of the legal profession would level the risk, and costs between the parties would improve this process.

PROTECTION FROM EMPLOYER REPRISALS - WHISTLEBLOWER RIGHT

EFFECTIVENESS: While some participants believed this right was acting in a preventative and proactive fashion, others felt it was not possible to know if the provision was working. They suggested that the lack of formal use of this right could be due to the existence of a variety of similar avenues to pursue actions and a lack of complete protection for employees, particularly in smaller, less formal and non-unionized environments.

BARRIERS: These include a lack of awareness of the existence of the right, the perception of continued risk for the employee, and the fear that the outcome might not justify the action -- the employee would have to fund the litigation and wait for an indeterminate result

IMPROVEMENTS: Speeding up the process so that decisions are made faster could encourage use of the provisions, as could improved access to legal aid and a more supportive society, government and workplace. In addition, education of the youngest in society may help ensure that fewer need to "blow the whistle" in the future.

Next Steps

Commissioner Gord Miller concluded the workshop by commenting on the great quantity and high quality of the comments and ideas put forward. He stated that the ECO would be examining the outcomes of the workshop, focusing on both administrative changes that could improve the *EBR's* effectiveness and on changes that could be suggested if the *EBR* is ever re-opened for amendments.